A mong the questions most frequently raised by news media professionals in recent months is how newspapers are responding to the new media environment and whether they will survive as readers shift to on-line content. A conference organised by the Media, Entertainment and Arts Alliance and the Walkley Foundation attempted to elicit answers to those questions but in doing so has thrown up many more questions for debate.

The *Future of Journalism* conference was held over two days in May at the ABC in Sydney. Some prominent and very experienced media professionals participated, including *Time* editor, Michael Elliott, *The Guardian*’s Roy Greenslade, and Philip Meyer, author of *The Vanishing Newspaper*, in addition to Eric Beecher, Mark Scott, Mike Van Niekerk, Campbell Reid, and Gerard Noonan. The perspective from within the new media was also represented by Karim Temsmani of Google, Rebekah Horne (MySpace), Kath Hamilton (Yahoo), and Hugh Atkin (blogger), among others.

Topics addressed over the two days extended beyond the central question concerning the impact of new media on journalism. Discussion touched on issues such as press freedom, ethics, privacy and defamation, but the focus of the conference was on the direction of journalism in the face of technological progress and the need to identify strategies to adapt to future trends.

Anyone who has discussed these issues with editors in recent months knows that there is no simple answer to these questions. There is agreement that change is inevitable but any consensus ends there. Some commentators are predicting that the end is nigh, while others are celebrating the brave new world of diversity and free expression. The views expressed at *The Future of Journalism* conference were largely consistent with those two contradictory perspectives, although there was a sense that many participants were still unsure of which position is more persuasive.

The negative viewpoint was epitomised by the comments of Roy Greenslade, who stated that “mass newspapers” will die and that news will ultimately be delivered on-line. At the other end of the spectrum, Jay Rosen (author of a blog on journalism known as PRESSThink) expressed his enthusiasm for a new approach to journalism whereby content is provided on a voluntary basis according to an experimental, collaborative model, such as *Wikipedia*. When Rosen was pressed on the issue of how journalists might make a living out of this approach, he conceded that he’d never tried to make a living out of journalism.

Thankfully, much of the discussion that took place over the two days was more constructive. Nonetheless, it was easy to gain the impression that the news publishing industry is approaching a dark tunnel without any headlights, with fingers crossed, hoping that all the passengers will emerge safely at the other end.

A recurrent theme during the conference was the need to identify and adopt new business models that can ensure that journalism remains viable as both advertisers and readers shift to on-line. Possible strategies proffered include access to on-line content via subscription; subsidisation of quality journalism from more profitable business areas; journalists as independent bloggers; and publication of niche journalism aimed at narrow audiences of people who constitute potential audiences. The model of journalism paid for according to an experimental, collaborative model, such as *Wikipedia*, was a good start.

There were some topics discussed which provided cause to be optimistic. Being far less dependent upon classified advertising, magazines will be largely insulated from the dramatic impact of the shift to on-line readership. While news magazines and magazines that cater to mass audiences will suffer, those magazines that cater to targeted audiences are likely to continue to have the readership and advertising revenue, which they currently enjoy, into the foreseeable future.

In general, the discussion over *The Future of Journalism* conference tended to explore the problems arising from the new media that need to be resolved, without proposing any significantly promising strategies to ensure the survival of quality journalism into the future. The two days of the conference should be regarded as just the beginning of the conversation rather than a solution to the problem. Viewed as such, the conference was a good start.


Inez Ryan
Advocates of press freedom have been kept busy in recent years, responding to a range of mechanisms aimed at preventing the media from telling the full story and, in particular, from scrutinising government action.

It’s an interesting exercise to take stock, from time to time, and consider landmark events in the context of evolving trends. From the Australian perspective, one of the best ways of gaining an overview of the current state of press freedom is by perusing the Media, Entertainment and Arts Alliance’s annual review of press freedom.

The MEAA’s 2008 report into the state of press freedom in Australia, Breaking the Shackles, the Continuing Fight Against Censorship and Spin, was released on 2 May, in conjunction with the MEAA’s annual dinner to raise money for the Alliance Safety & Solidarity Fund, which works to promote press freedom in the Asia/Pacific region.

In terms of landmarks, the report acknowledges that one of the beacons of press freedom in the last year was the formation of the Right to Know Coalition and its publication of an audit into free speech in Australia. In spite of the plethora of threats to press freedom in Australia of late, the report recognises a number of positive developments, including expressions of commitment to review of freedom of information by both the Bligh government in Queensland and the Rudd government at the federal level.

On the other hand, Sydney’s hosting of the APEC summit might well be regarded as the low point of the last year. In its description of “fortress Sydney”, the MEAA report provides an account of an accredited photographer being assaulted by police as she attempted to document the actions of protestors who penetrated police lines. Other points of interest in the topography of press freedom in the last twelve months include the sentencing of Allan Kessing for allegedly leaking a report on airport security; the sentencing of Gerard McManus and Michael Harvey for refusing to disclose a confidential source; the suppressing of Underbelly in Victoria; attempts to use the Trade Practices Act to bring actions for defamation; the selective leaking of documents by the Australian Federal Police in the arrest of Dr Mohammed Haneef; the threatening of journalists with prosecution by the WA government for reporting on a secret inquiry or for refusing to disclose sources; and the deportation of Russell Hunter from Fiji after publishing reports that the former prime minister Mahendra Chaudry was involved in tax evasion. (The subsequent deportation of Evan Hannah occurred after the report was written.)

The report considers a range of issues, including the impact of terrorism and sedition laws on freedom of expression; the extent of government spin and political advertising; attempts to restrict access to websites declared offensive; the latest developments in litigation for defamation and privacy; and the widespread use of suppression orders preventing reporting of court proceedings.

The MEAA’s 2008 report into press freedom gives a useful snapshot of the state of free expression in Australia as well as a glimpse of intrusions into press freedom in the Asia-Pacific region. When read in conjunction with its predecessors it gives an idea of where things are improving and where they are deteriorating. The report is available for download from the MEAA’s website: http://www.alliance.org.au/

Inez Ryan
News by email

Press Council publications are now sent by email to those who ask for delivery in that form. If you want the News 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.

Press Council Prize

There will be no Essay Prize in 2007-2008. As in previous years, the Council will be making a series of awards for outstanding scholarship 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.

Today Tonight

In the February 2008 News, an article on the Manock case carried comments that misrepresented Today Tonight. The Council acknowledges that the program is accurately classified as being a ‘current affairs’ program and was well within its rights in defending a claim brought against it. The Council apologises for any hurt occasioned by the comments. The first paragraph of the article has been changed in the on-line version and now reads: Channel Seven’s high-rating, prime-time current affairs television program, Today Tonight, has on occasion been accused of sensationalism. It is certainly no stranger to controversy, nor to litigation. On 5 March 2004 Channel Seven broadcast a promotion for a forthcoming edition of Today Tonight. Displayed on the screen was an image of forensic pathologist, Dr Colin Manock, while the voiceover recited the following words ...

In the office

The assistant to the Executive Secretary, Emma Boreland, has left the Council to pursue opportunities in the magazine industry. Her replacement is Melanie Maroun. Mel will be most frequently the person answering the phone when you call the Council.

Press Council Office manager Deborah Kirkman celebrated her fifteenth anniversary with the Council at the April/May meeting. Among her many roles, Deb is primarily responsible for the processing and mediation of complaints in the early stages of consideration.

On the Council

Retired APC member John Morgan has penned his memoirs Then and Now. In nearly 50,000 words, Morgan tells of growing up in England with Welsh as his first language, World War II, his military service and his career as a journalist, including his 25 years of service on the Press Council.

He writes warmly of his family: his wife, Freda; children Sue and Huw, and grandsons Jack, William and Ned. A polymath, Morgan writes knowingly about, among other topics, World War II, which he witnessed as a child; about sailing, space, Australia, China, and, vintage Morgan (his friends would say), flying, which he ranks after family and migrating to Australia as the fourth great event in his life.

The 86-page memoir is available at www.lulu.com by searching for “John Morgan.” It was published by Coal Cracker Press of Santa Fe, New Mexico, USA.

Planning Days 2008

The Council is holding its fourth triennial Planning Days, on 31 July and 1 August, with the following main objectives:

1. To consider major developments in the Australian press and in the expectations of the newspaper reading public that may impact upon the role and work of the Press Council;
2. To review changes in the way the Council operates to better meet the needs of the reading public;
3. To discuss practical initiatives that could anticipate or respond to these developments, or enhance the Council’s operations;
4. To plan long-term strategies for the next three years on how the Council might meet its Objects.

Reports on the three earlier Planning Days and a summary of the changes that have occurred in the Council’s objects, role, principles and procedures as a result, can be found on the Council’s website, http://www.presscouncil.org.au/pcsite/about/planning.html

Review of the Statement of Principles

One of the major topics for the 2008 Planning Days is a review of the current Statement of Principles. The Council last reviewed the principles in 1996, although it has made changes to principles five and six since then.

The Council is calling for submissions from the reading public and from journalists and editors as to any changes to the principles that might be made to make them more generally useful as a yardstick for dealing with complaints.

A copy of the current Statement of Principles starts on page 8.
**Visit to New Zealand**

The Press Council travelled to New Zealand in early March for its regular meetings and to meet with the New Zealand Press Council. These meetings took place on 12 and 13 March 2008. The Council was most appreciative of the efforts of NZ Press Council Secretary Mary Major who shouldered most of the burden of organising the NZ end of the visit. In addition to some informal contacts and a joint dinner, the two Councils discussed more formally a number of matters of mutual interest.

One impetus for the visit was a recent review of the operations of the NZ Press Council. The review had recommended a number of changes, many of which would see that NZ Council operate more like the Australian Press Council in a number of areas. The Chairs of the two Councils, Professor Ken McKinnon and the Hon. Barry Paterson, chaired the joint meeting. Amongst the issues raised and discussed were questions about whether dissents and minority reports should be included in adjudications; complaints’ hearings; the use and efficacy of the legal waiver; mediation; ways of dealing with vexatious complainants; and fast-track procedures. The two Councils also discussed the legal and political environments in their respective countries and the main threats to press freedom, as well as how they might assist other press/news councils in the Asia-Pacific region.


**Indonesian Press Council visit**

Five members of the Indonesian Press Council, led by Vice Chairman, Dr. Sabam Leo Batubara, travelled to Australia in April 2008. While here they met with the Australian Press Council and attended committee and Council meetings. Other members present were Bambang Harymurti, Wina Armada Sukardi, Wikrama Iryans Abidin and Abdullah Alamudi. Also present was the Council’s secretary, Lukas Luwarso. There was a detailed discussion with members of the Indonesian Press Council on matters of mutual interest, including developments in Timor Leste and threats to press freedom within Indonesia. Australian Press Council members sought details on the operations of the Indonesian Council and how its members were appointed. The Indonesians sought clarification of aspects of the Australian operations following their observations of, and participation in, the Complaints and Policy Development committees. Additionally, the Australian Council’s Executive Secretary Jack Herman met further with Lukas Luwarso and IPC member Abdullah Alamudi to discuss the administrative arrangements for the Council.

During the discussions with the Indonesian Press Council, reference was made to court action being taken by *Time* magazine, seeking to reverse a large judgment in a defamation case brought by former Indonesian leader Suharto. The Council agreed to join the IPC in an *amicus curiae* brief related to this action.

**AFL bans AAP photographers**

In 2007 the Australian press Council had correspondent with the Australian Football league (AFL) over its Media Policy. The Council expressed concern at the accreditation policy employed by the AFL that saw it exclude photographers from overseas news agencies from its list of accredited journalists. In response to the Press Council’s concerns with what looked like an attempt by the AFL to commercialise the reporting of news, the AFL said, inter alia,

To assist rural newspapers who do not have the resources to provide their own photojournalists, the AFL accredits 12 AAP photographers. The photos provided by AAP are free of charge to rural newspapers, provided they are used for editorial purposes and are not for resale.

In April 2008, the Council wrote again to the AFL expressing surprise that, this year, it has decided not to accredit AAP photographers. In the light of the league’s decision also to accredit photo-journalists from other publishers only on the basis of a continuance of their current arrangements for syndication of images, thereby not allowing for the supply of images to rural and regional publishers that previously relied on AAP, what conclusion the Press Council came to the conclusion that the AFL is seeking to commercialise the reporting of the game by making the publications that previously relied on AAP use AFL Photos for any pictorial coverage of the game.

Sports events are undoubtedly legitimate news events. Actions by sporting bodies that threaten the ability of the press freely to report news are inimical to the standards of press freedom to which Australian society subscribes.

Last year the AFL justified the exclusion of overseas agencies by referring to the accreditation of AAP. This year it has discredited AAP. The Council asks, is there any reason to believe that the AFL will not go further in its attempts to control the legitimate reporting of public events? Which journalists or photojournalists will it next exclude?

The Press Council is seeking the advice of the AFL as to whether there is any good reason for the exclusion of AAP photographers, and thus for the deprivation of its rural and regional clients of an independent source for news images from AFL games.

*Editor's note:* There is a certain irony that many of the media clients who formerly relied on AAP for AFL news images are in the very Queensland regional areas into which the AFL is seeking to enter, with a club in Brisbane and the prospect of a second Queensland club based on the Gold Coast. Cutting off the main supplier of news images to rural and regional newspapers in northern NSW and south-east Queensland seems to be a counter-productive move from sports administrators with a reputation for the efficient running of their sport.

**Timor Leste**

The Press Council has been invited by Kolkos (The Commission for Media Law) in Timor Leste to participate in a workshop aimed at collecting different perspectives on questions relating to the drafting of a media law in that emerging country. The workshop will take inputs from government, church and NGOs on topics
such as freedom of expression, broadcasting law and press self-regulation. The Council’s involvement follows a visit to Timor Leste by Gary Evans, an editor member of the Council. One particularly worrying development was the possibility of a move towards the incorporation of criminal defamation in any legislation. The Council is seeking AusAid assistance in getting delegates to Dili for the workshop in late June.

**Reporting of children’s courts**

The Press Council has written to the NSW Attorney-General to express its concerns with the recommendations in the report of the Legislative Council Standing Committee on Law and Justice: *The prohibition on publication of names of children involved in criminal proceedings*. In the Press Council’s view many of the committee’s recommendations, particularly recommendations one and four, are unlikely to improve the situation and may make it worse. It therefore suggests that the government take no action to implement either recommendation 1 or recommendation 4.

Additionally the Council is concerned that no recommendation has been made to ameliorate the negative impact on reporting of matters of public interest and concern of the 2004 and 2007 amendments to the *Children (Criminal Proceedings) Act*. In the Council’s view, the government should immediately amend the Act to return it to the position that existed before the 2004 and 2007 amendments.

The Press Council has no major concerns with the philosophy underlying the committee’s report. It agrees that there is a greater impact on juvenile offenders who are named as a result of their involvement in criminal proceedings and that the current regime of restricting such information unless a judicial officer specifically releases it is a reasonable one. Indeed, before the 2004 amendments were introduced into Act, the press expressed no reservations about the operations of the provisions restricting the naming of juvenile offenders.

It is the 2004 amendments, and the 2007 changes to them, that have caused difficulties, and this is a problem not addressed adequately by the committee in its report. The 2004 amendments effectively prohibit the identification of deceased child victims in order to minimise the trauma to the family of the deceased, especially surviving child siblings. Problems with the amendments, which were passed without adequate consultation with the media, led to the 2007 changes. These allow for the senior available next of kin (SANoK) to give permission for the deceased child to be named.

The media submissions, in writing and orally, to the committee pointed out some of the anomalies in these changes. For instance, until a charge is laid, the press can report matters, including the name of the deceased child. A number of these cases have involved matters of significant public policy, especially related to the performance of the Department of Community Services. The effect of the amendments is that the press can report these matters, with names, up to the time that charges are made, and then has to cease reporting them, unless permission is obtained from the SANoK. The press is far less likely to report when no names can be used. Reports that omit names are likely to have less impact. Thus, matters of public interest and concern are kept away from the arena of public debate, to the detriment of proper public scrutiny.

But the anomalies inherent in the 2004 and 2007 amendments go further. The ostensible reason for non-publication of the names of deceased children is protection of their surviving siblings. No such consideration is given when the victim (or alleged perpetrator) is an adult, yet the impact on surviving siblings or children is just as great. No consideration is given in the Act for those deceased children who have no surviving siblings. In such cases, what is the public policy benefit in maintaining the prohibition? In cases where names are used before a charge is laid, for example, in a police announcement of the identity of a person they are seeking to assist them with their inquiries, the public may never be made aware of the fact that someone has been apprehended and charged because of the effect of the 2004 amendments.

The SANoK mechanism does not address the concerns with the 2004 amendments, and creates some problems of its own. In cases where one or both of the parents of the deceased child is charged with the crime, or is already incarcerated, there may be no SANoK available, so the prohibition favours only the person charged with the crime, surely a contradiction of the rationale for the openness of the adult courts. In cases where there may be a SANoK who may not be a member of the immediate nuclear family of the deceased child, attempts by the media to discover the identity of such a person, and to seek their permission as per the Act, may involve a greater invasion into the privacy of grief than would have occurred if the prohibition did not exist.

The committee may have considered these anomalies but its recommendations indicate that it did not fully understand them. When it was pointed out to the committee that NSW is out of step not only with comparable overseas justice systems, and with every other state and territory jurisdiction in Australia, the committee’s response is not to consider that NSW might have got it wrong, but to assert that NSW alone has got it right. The committee recommends that the government seek to bring all the other states and territories into line with NSW, rather than bring NSW in line with the rest. An example of the sort of reporting that would be prohibited in NSW is in *The Australian* of 14 May. In the notorious case of a toddler dumped in a South Australian mineshaft, allegedly by his father, a matter that reflects on a significant public policy area, the application of mental health orders, the newspaper was able to report the father’s court appearance without the necessity of invading the privacy of the toddler’s mother in order to do so.

The committee’s other response to the anomalies created by the fact that matters of public interest may be reported prior to charges being laid, and then suddenly not, if no SANoK can be found to give permission, is to suggest that the prohibition be extended backwards to a time before charges are laid. Under the committee’s proposals the media will be asked to apply a test of ‘reasonable likelihood’. If it is reasonably likely that a charge will be laid, then reporting of the name of the alleged offender (or of a deceased child) should not be used. There might be some arguments to support the idea with respect to the naming of those arrested but not yet charged, but thought needs to be given to the impact such an extended prohibition would have on the investigation of the case, in particular with the publication of material released by the police aimed at seeking public assistance in finding a possible offender.
In cases where the matter involves the naming of deceased children, rather than the naming of a possible juvenile offender, the argument is even less persuasive. In cases involving significant public policy questions, including those involving the Department of Community Services, the prohibition on the use of names where there is a reasonable likelihood of charges being laid at some future point would impede the investigation of the matter and would impede public debate on matters of clear public interest.

One final issue that the committee does not adequately address: the timing of any proceedings to seek the exercise of the judicial discretion to release the names of juvenile offenders. At the present time, the Act provides that such discretion can only be made at the time of sentencing. The application by Herald Publications for the naming of the K brothers, none of whom can be named because two of them were juveniles at the time of their crimes, indicates the problem. In this matter there was a series of related trials. Some of the brothers were sentenced in adult courts and others in children’s courts. By the time all the actions had been finalised, and the Herald sought the exercise of the judicial discretion, so that both the adult and juvenile offenders could be named, it was ruled to be too late because it was no longer at the time of sentencing. In many of the cases involving serious crimes where the release of names might be thought appropriate, there will be a similar complexity of matters to be considered by the judiciary. Some thought might be given to an amendment that would allow for an application for the exercise of the judicial discretion at a time when all matters have been completed.

An example of a UK case, where the release of the name of the deceased, comments by her family and the identification of the juvenile accused were important aspects of a story about an obvious matter of public interest, juvenile binge drinking and concomitant violence, can be found at http://www.dailymail.co.uk/pages/live/articles/news/news.html?in_article_id=547708&in_page_id=1770. In this case the release of names was at the time of conviction, not sentencing, and it is a case that may not have been reported in NSW, to the detriment of the public interest, particularly had the victim herself been a juvenile.

**Raid on Sunday Times**

In May 2008, the Council wrote to the WA Premier Alan Carpenter to express its condemnation of the police raid on the offices on of the *Sunday Times*.

The Council holds the view that searches and seizures of material held by journalists is only justified in extreme circumstances:

* where there is probable cause to believe the journalist has committed the criminal offence (and not merely a breach of “official secrecy” provisions) to which the materials relate;
* where there is reason to believe immediate seizure is necessary to prevent the death of, or serious bodily injury to, a human being; or
* where the search or seizure relates only to documents pertaining to a serious crime, but not to the journalist’s own notes and other “work product materials”, and the journalist refuses to produce documents under a court order or there is reason to believe they will be destroyed or hidden if a subpoena is issued.

The raid on the *Sunday Times* to seek material related to a story published in February - a story that may have embarrassed a senior Minister of the government but was otherwise unrelated to any serious breach of the law - does not meet any of these criteria. In fact, it would appear that the only justification for the raid was a clumsy attempt to try and identify the person who may have leaked the story to the *Sunday Times* journalist. As a former journalist the Premier should have been well aware of the importance of leaked material in exposing crime, corruption and incompetence in both the public sector and the private sector. Heavy-handed attempts by governments, and their operatives, to seek to identify and intimidate whistle-blowers say much about the government making such an attempt.

In any case, it would seem very late in the piece for such a raid to take place, many months after the initial story was written. While the use of such intimidatory force may appeal to some elements in the government, or in the bureaucracy, a raid at the end of April concerning an article written in February seems more *Keystone Kops* than *CSI*.

The Council is aware that, under the previous federal government, the AFP spent $2 million and over 2,100 man-hours in a five-year period trying to track down public interest whistle-blowers in the federal public service. Is a state ALP government going to copy their example?

The use of first the CCC and now the police Fraud Squad in attempts to stifle whistle-blowers does not contribute towards the free and responsible discussion of matters of public interest and concern in the press. The WA government has in the recent past sought the assistance of the Council in ensuring that reporting about the government is responsible. The Council now seeks the government’s assistance in seeking to ensure that the press in Western Australia is free from unnecessary intimidation in its attempts freely to report matters of public concern.

### Freedom of Information

1. In March 2008, the Council made a submission to the Independent Review of the *Freedom of Information Act* 1992 (Qld), the Executive Summary of which read:

   Freedom of Information in Queensland is in need of significant revision. Amendment to Freedom of Information must address three main areas of concern:

   1. The excessive delays in processing and reviewing applications must be dramatically reduced.
   2. The exorbitant fees imposed upon applicants seeking non-personal information must be brought down to modest amounts.
   3. The proportion of documents to which access is granted must be increased. In order to achieve this, the scope of exemptions must be narrowed; when making decisions as to whether or not to release material under FoI, officers must be required to take into account the public interest in disclosing information for the purpose of facilitating accountability. The default position set down in the legislation should be a requirement that information must be released unless it meets very limited conditions that define disclosure as being “not in the public interest”.

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*where the search or seizure relates only to documents pertaining to a serious crime, but not to the journalist’s own notes and other “work product materials”, and the journalist refuses to produce documents under a court order or there is reason to believe they will be destroyed or hidden if a subpoena is issued.*
In addition, the government should make freely accessible via the internet a wide range of material which facilitates public scrutiny of government policy and conduct. The full submission has been posted to the Council’s website at: http://www.presscouncil.org.au/pcsite/fop/fop_subs/foinsw.html

2. Later the same month, the Council wrote to the NSW Ombudsman seeking from him a formal review of the NSW Freedom of Information Act 1989. The Executive Summary of that submission read.

The media has three areas of concern with regard to FoI:
• The excessive cost involved in pursuing Freedom of Information applications
• The lengthy delays often experienced in seeking material pursuant to Freedom of Information
• The high proportion of refusals of access to material under Freedom of Information.

In order to address these concerns, the Press Council seeks the following reforms:
• Elimination of Ministerial certificates
• Narrowing of the scope of exemptions
• Disclosure as default position unless there is overwhelming public interest in confidentiality
• Introduction of a clause making it a illegal to withhold information for improper purpose.
• Change in the Freedom of Information fee structure to charging for documents received rather than processing time.
• Refund of application fees where there is a lengthy delay.
• Improved access to material via the Internet.
• Publication of Freedom of Information statistics in collated form.

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

3. In early May, the Council’s Chairman, Professor Ken McKinnon, and Executive Secretary, Jack Herman, met with Senator John Faulkner to discuss with him his government’s pre-election promises to introduce changes to the laws and culture of FoI. Those undertakings included the abolition of Conclusive Certificates; the introduction of the post of federal Information Commissioner will be established; and the establishment of open and accountable government.

The Council endorsed those objectives and argued that to achieve open government, the following are necessary:
• The requirement for open and accountable government should be explicit in the legislation in sufficiently unequivocal terms in a main operative clause, expressing openness as the default position.
• The information provision default clause should require that documents are available for public scrutiny unless there is an over-riding public interest in their confidentiality
• Safeguards are desirable in the legislation to prevent back-sliding from the general access position.

After constructive discussions of the government’s intention to introduce legislation to change FoI laws in line with the government’s election commitments, the Senator agreed to meet with the Council and other interested bodies to discuss further changes to the law and culture of freedom of information at the federal level.

**Sexualisation of children**

The Press Council made a submission to the Senate Standing Committee on Environment, Communications and the Arts’ Inquiry into the Sexualisation of Children in the Contemporary Media Environment. The submission’s Executive Summary read:

• Images of children which appear in print publications are regulated by the Classification Act and Regulations
• Australia’s print media represents children in a responsible manner
• Advertising which includes images of children or which is directed to children is subject to regulation by the Advertising Standards Board and publishers are required to distinguish between advertising and editorial content.
• Images and editorial content in print publications are subject to the Press Council’s principles and guidelines.
• It is preferable to address the issue of the sexualization of children by way of self-regulatory mechanisms rather than to impose censorship restrictions which have the potential to result in unintended restrictions on freedom of the press.

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

**Conciliated complaints**

The Council office tries to solve matters by direct contact with the publication concerned. This often leads to a settlement of the matter satisfactory to both parties. On occasion, an independent member of the Council (or a member of the secretariat) will convene a face-to-face conciliation, by agreement with the parties. Below are some examples of the matters recently settled in these ways.

A regional daily published a court report that incorrectly stated the complainant had been charged and found guilty of punching a man at a shopping centre. The paper immediately published an apology and correction stating that the assault related only to the shining of a laser pointer at the man.

A national newspaper published an op/ed piece on global warming that was, in part, inaccurate. Once the matter was drawn to the paper’s attention, it published the complainant’s letter correcting the inaccuracy.

A complaint’s privacy, and safety, are at risk by the republication on-line of her photograph and former and current names. The matter was successfully settled at a formal mediation where the publication undertook to tag the material “Not to be re-published”.

The full submission has been posted to the Council’s website at: http://www.presscouncil.org.au/pcsite/fop/fop_subs/kids.html
Interview: John Fleetwood

EMMA BORELAND caught up with South Australian Public Member John Fleetwood on the Australian Press Council’s recent trip to New Zealand.

What do you see as a role of a Press Council Public Member?

JF: To represent the community. To ensure that an average reader, whoever that may be, would think about media issues, particularly fairness and ethics.

What interested you to become a Public Member?

JF: I love reading. Gaining a role with something connected to print media such as the Council was and is something I am strongly interested in. I have always had views about what I was reading; things that were not right or could have been better done, better handled. It is an opportunity to participate.

Explain the process by which you were selected?

JF: There was and I assume still is a roundtable interview. There were five of us and we were interviewed simultaneously by three members of the Council. It was an interesting experience. I understood why they did it the way they did. The Press Council is no place for shrinking violets. You have to speak out especially if you are representing the public. The process sorted out who was best. You had to compete for air space.

For people who want to become a member, what advice would you give them?

JF: If they are interested in media and want a role to put something back to the community, apply to become a Public Member. I have enjoyed every minute of it.

Since you joined the Council in 2004, what progress have you seen in the Council?

JF: I think we have improved the complaints process. It is quicker and fewer complaints are likely to come to the Council [because of mediation]. In the earlier days a lot of the adjudicated complaints were trivial. Now it’s harder to adjudicate because there are more serious issues raised.

On the policy side, I have always been impressed with what the Council does. I don’t think it has been improved because the standards have been high for some time, especially with people like Chris McLeod and Warren Beeby involved.

Every three years the Council has a Planning Day to talk about the Council, its principles and procedures. What would you like to see addressed or changed this year?

JF: We need to standardise adjudications. There are times when adjudications could be more consistent, although most of the time the Council does a good job. I don’t like the ‘upheld in part’ adjudications: they confuse the process of what we do. Adjudications are a fine line where sometimes people’s perceptions and views get in the way. The complaints process sometimes confuses both media and members of the public. This is particularly the case where the Council makes a “part-way” decision.

Additionally, I would like to see the Council increase its public profile. The community needs to know more about us.

The Council gets criticised for being funded by the publishers. Do you think the Council should be more independent financially or is the current situation OK?

JF: Ideally, if it was more individually financed, it could be a better thing but how do you do that? There will always be a conflict of interest, whoever you are funded by. At the moment the industry does not work together as a bloc on the Council. I do not think the criticism is valid because finding an alternative would be difficult.

The Council is meeting with the New Zealand Press Council. What do you think the Council could learn from the NZPC?

JF: I was really grateful for the chance to meet with and experience the New Zealand Press Council. I found the experience reinforced that both Councils seem to do a lot right! One thing that was an interesting difference, and might be worthy of our consideration, is that the NZPC publishes the names of the members who vote to uphold and dismiss for each adjudication,
whereas we don’t. I think that’s certainly worthy of Council discussion during our 2008 Planning Day.

Do you think the money spent on visits interstate (and overseas) is worth it?

JF: I don’t know to what degree it’s more than a normal meeting in our Sydney offices. Travelling throughout Australia is a good thing because we are getting among the communities with public forums. It is a good investment.

Where do you think the Council could better spend its money?

JF: I think we could spend it more wisely. Better promotion is one thing, especially the better promotion of the existence of the complaints process. It is the core view of why the Press Council exists.

What is your opinion on Industry Members involvement in the Press Council?

JF: They are an important part of the Council and bring a vital perspective to the Council. While neither Industry nor Public members form blocs, I feel Industry members need to take into account an average person’s view [of what is published] rather than just thinking about putting out a newspaper every day. The industry might have a view opposing that of a Public Member, but it needs to understand the outside view as well.

What adjudications do you think the Press Council got wrong?

JF: Ironically, for me, it was actually one where the Council decided to uphold the complaint - where I thought it should have been dismissed. It was a complaint against New Idea in late 2006. Of course, just because I didn’t agree (and still don’t), that doesn’t make me right - but I never understood the rationale of the majority - and quite frankly I think some were too influenced by the personal appearance of the complainant at the Complaints Committee hearing. I think that, if that same complaint came before the Council again, a different decision would be highly probable.

Another one was when, I think mistakenly, the Council dismissed a complaint relating to Zoo Weekly interviewing a young woman about her sexual experiences in a night club. The resultant interviews were graphic to say the least. The Council, in a more recent adjudication, correctly took the view that there could not be informed consent given by an interview subject who was coming out of the effects of anesthesia but in the Zoo Weekly matter we dismissed a complaint involving a young girl, obviously in an environment where alcohol is a factor, being interviewed in detail about her sex life. The question there too was whether informed consent could be given if she had been drinking. Consistency is important and I think those decisions were, to an extent, inconsistent.

Adjudications vary from upheld, part upheld, considered, dismissed. What are your views on this?

JF: We should make clear what we are upholding, if we uphold in part. The Council has been guilty of upholding in part to have a ‘two bob each way’, which is the easy way out. The Council should make a decision, either uphold or dismiss.

Where do you see a future for the Press Council?

JF: There is a future providing the Council keeps its focus on complaints and enhances advertising of itself. If it becomes high profile, the community would want it to stay. The Council would become obscure if we focused largely on policy/free speech issues. The Council exists because of complaints and the community wants to know they have somewhere to go if they have concerns with a magazine or a newspaper.

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**Australian Press Council**

**Statement of Principles**

To help 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 of the people to be informed. This is the justification for upholding press freedom as an essential feature of a democratic society. This freedom, won in centuries of struggle against political and commercial interests, includes the right of a newspaper to publish what it reasonably considers to be news, without fear or favour, and the right to comment fairly 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. Newspapers and magazines (“publications”) should not publish what they know or could reasonably be expected to know is false, or fail to take reasonable steps to check the accuracy of what they report.

2. A publication should make amends for publishing information that is found to be harmfully inaccurate by printing, promptly and with appropriate prominence, such retraction, correction, explanation or apology as will neutralise the damage so far as possible.

3. 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. Rumour and unconfirmed reports, if published at all, should be identified as such.

4. News obtained by dishonest or unfair means, or the publication of which would involve a breach of confidence, should not be
**PRESS COUNCIL ADJUDICATIONS**

**Adjudication No. 1384**

The Press Council has dismissed a complaint brought by the Church of Scientology against The Daily Telegraph regarding the headline of the article published in the 10 July 2007 edition.

The original complaint concerned allegations of unfairness in a series of articles published in the 10, 11 and 14 July editions.

Subsequently, the complainant confined the complaint to the headline over an article that reported the court appearance of a woman who had been charged with murdering her sister and her father. The headline was "SCIENTOLOGY SLAYING", accompanied by a sub-heading: Court told of church link to killing.

The article reported that the woman who had been charged with the murders was allegedly forced to stop taking psychiatric drugs by her family “because of their Church of Scientology beliefs”. It also reported testimony in the court that her parents had insisted that their daughter “take medication imported from the US, which was ‘not psychiatric in nature’ and complied with the Church of Scientology’s rules”.

The nub of the complaint regarding the headline was that “people reading the headline understood it to mean that Scientology was responsible for the slaying/killing”. The newspaper response was that the headline when read in isolation "has virtually no meaning" or “so many possible meanings as to be meaningless”. When read with the sub-heading, its meaning becomes apparent, namely, “a court had been told that there were possible links between a church and a ‘slaying’,” the newspaper said.

It further said that the headline was an attempt to “catch reader attention” and "convey an accurate sense of what the story is about”.

Without the sub-heading, the headline "SCIENTOLOGY SLAYING" does have a degree of ambiguity. The Council agrees that the newspaper is correct in saying that the headline should be read in connection with the sub-heading and the complaint is dismissed.

**Adjudication No. 1385**

The Press Council has dismissed a complaint by Peter Davidson over a 6 December 2007 article in The Courier-Mail, headed Move to stop the rot, on the Queensland Government’s decision to fluoridate water supplies.

The basis of Mr Davidson’s complaint was that The Courier-Mail had knowingly deceived its readers in its reporting of statistical studies of fluoride and dental health in Queensland, and had utilised a study from 1991-1992, which he described as ‘outdated’, rather than using statistics from a more recent study.

The newspaper stated that it had relied on the information provided by the Premier, Anna Bligh, dated 5 December 2007. In her statement headed Fluoridation to deliver better oral health for Queenslanders, Ms Bligh said that the Government “cannot ignore the extensive scientific evidence that shows fluoridation is the missing link in Queensland’s oral health system”.

The Press Council is in no position to determine the statistical accuracy of surveys, or to question the facts on which the Government made its decision. But the newspaper is entitled to report the information provided by the Premier in support of a Government decision.

**Adjudication No. 1386**

The Press Council has upheld a complaint that The Daily Telegraph invaded the privacy of a police officer and his family by unnecessarily publishing residential and family details.

The article published to The Daily Telegraph website on 8 November 2007 and then in the printed edition on 9 November 2007 detailed an assault on an off-duty police officer.

The officer complained that the articles contained sufficient information to identify him, his residential address, the number of children he had and where they attended school.

The officer is of the view that the safety of his family and quality of life at their home has been compromised by publication of this information.

In response, The Daily Telegraph said that news imperatives compel newspapers, and the media in general, to provide detailed information to the public on matters relating to crime and public safety. The response also acknowledged that the police media unit had described the victim as a married, off-duty police officer with children. The police media release did not identify the officer.

The Press Council finds that the publication of personal information relating to the officer did not have respect for the privacy and sensibilities of individuals involved, thus breaching the Council’s Principles, and the publication of personal details has intruded on the privacy and safety of the officer and his family, in breach of the Print Media Privacy Standards.

**Adjudication No. 1387**

The Australian Press Council has dismissed a complaint about a feature article in the 15-16 September 2007 edition of the Weekend Australian.

The article, A matter of education, was an in-depth discussion of the results of research into Australian attitudes towards Muslim immigrants. Several specific research activities were referred to including a March 2007 weekend meeting, Australia Deliberates, at Canberra’s Old Parliament House, where 329 ‘representative Australians’ were invited to discuss the issues with experts on both sides of the debate.

The complainant, Denis McCormack, was a speaker at the meeting and was described in the article as ‘Australians Against Further Immigration’s Denis McCormack, an advocate for white Australia’. Mr McCormack said that both these statements were untrue. An accompanying photograph, showing Mr McCormack holding up a Union Jack, carried the caption ‘No more immigration: Denis McCormack speaks at the meeting’.

The official program for the event lists Mr McCormack as an ‘independent immigration researcher and co-founder of Australians Against Further Immigration’. Mr McCormack as an ‘independent immigration researcher and co-founder of Australians Against Further Immigration and Australia First Party’.

Mr McCormack says that the newspaper took this reference to mean that he was representing AAFI and AFP at the event. He complained to the newspaper and was invited to submit a letter to the editor, an offer he declined.

The Australian said that the journalist was entitled to assert that Mr McCormack was an advocate for white Australia because of what he said at the meeting, including, “The real issue is are we giving white Australia a fair go by demographically consigning it to the scrap heap through unasked for,
unnecessary, high non-European immigration”.

The reference to Mr McCormack’s association with AAFI is widely used, as it was in the official program. The Press Council does not believe that the newspaper violated any of its principles in its coverage of Mr McCormack’s contribution to the debate and dismissed the complaint.

**Adjudication No. 1388**

The Press Council has upheld a complaint brought by Daryl Sleep against the Nam Uc Tuan Bao, a South Australian Vietnamese-language publication, regarding materials published in its 18 January 2008 edition. The materials relate to photographs that purportedly show a human foetus being prepared for cooking and a man in China apparently eating the cooked foetus. The complainant found the photographs to be revolting and shocking.

The article accompanying the photographs was highly critical of the Chinese Communist Party and the Chinese government. It reported alleged atrocities committed by the Chinese government against its own people and used this as an excuse for publishing these images. It said that the persecution by the Chinese government of followers of Falun Gong and the jailing of reporters and the operating of a vast censorship system were occurring despite a promise to the International Olympic Committee to ensure complete media freedom.

The newspaper published the images without explaining that they were apparently the work of a Chinese performance artist named Zhu Yu, that they were over eight years old, and that they have been circulating on the Internet and in anti-Chinese newspapers since 2000. Without putting these images in context the newspaper has sought to portray them as absolute factual accounts and has also failed to take into account the sensibilities of readers. In doing so the newspaper has infringed the ethical principles governing the print media in Australia.

**Adjudication No. 1389**

The Australian Press Council has dismissed a complaint by Keith Roberts against Australian Motorcycle News.

The material complained of – a report and a single-paragraph pointer to it – was based on emails from a member of Motorcycling Australia’s Historic Commission criticising aspects of the organisation of racing events held on Phillip Island. The official was not named in the material, but after publication Mr Roberts identified himself as the sender of the emails.

He complained that the material published relied on private correspondence that had been used without his permission or that of the recipients; that the emails had been edited in such a way as to alter the purpose of his comments; and that the magazine had not sought his comments before publication.

The magazine disagreed that the emails should have been regarded as a private exchange, because, it says, they were provided to it by two of the parties to the correspondence. It points out that reports that rely on such so-called leaks are a legitimate form of journalism. It said the fact the emails’ sender was a senior official of the national governing body of Australian motorcycle racing and that his comments concerned the conduct of a major sporting event held at a venue that receives substantial government funding meant there was strong public interest in the material being published.

It also said the edited version of the emails that it published accurately reflected the tone and position stated by Mr Roberts and that since the emails were themselves the expression of Mr Roberts’ comments it had no obligation to seek out further comment before publication.

The Press Council agrees that the published material is an accurate representation of the views Mr Roberts expressed in his emails and that the fact the magazine did not identify him as their source validates its decision not to approach Mr Roberts for further comment. The Council supports the view that in cases where a strong public interest exists leaked information is a valuable and legitimate source.

**Adjudication No. 1390**

The Australian Press Council has dismissed a complaint by Ralph Horowitz that The Age treated him unfairly by not seeking his comment in what he described as a “biased” year-end analysis of the performances of Victorian radio station 3AW.

The article in the newspaper’s Green Guide of 13 December 2007, noted that 3AW (owned by Fairfax Media, which also owns The Age) had “cruised out of yet another year in top spot” in the ratings. Mr Horowitz said that the bias arose from the mutual ownership of the two outlets.

3AW has achieved its success, the article said, despite “a mid-year footy ratings freefall - a problem fixed by four prominent sackings”. Mr Horowitz, 3AW’s executive football producer, was dismissed with three on-air colleagues in a mid-season revamp of the football program’s format.

The article documented the partial recovery in football ratings after the revamp.

Mr Horowitz accused The Age of publishing a one-sided, unchallenged regurgitation of “PR spin” in favour of an associate company, and of not seeking his comment. The newspaper rejected the complaint, citing Mr Horowitz’ earlier refusal to speak to the journalist after his sacking “citing legal reasons”.

Given that the article principally dealt with 3AW’s continuing rule as Melbourne’s premier broadcaster and recovery in its football ratings after the mid-season revamp, the Council believes comment from the sacked workers was not essential.

The Age properly disclosed its association with 3AW in the article, and the Council can find no evidence that the charge of bias is sustainable. Nonetheless the Council reminds editors that they should always bear in mind the public perception that there might be bias in reports on the activities of corporate stakeholders.

**Adjudication No. 1391**

The Press Council has dismissed a complaint by Arthur Hadaway over the editing of a letter which appeared in the Bribie Weekly on 7 March 2008.

The letter addressed his concerns about plans for an easement near his home.

Mr Hadaway claimed that the editing of the letter materially changed what he had wanted to say.

The Council found that it could be argued that the editing slightly changed the meaning, but that did not detract from the main arguments put forward by Mr Hadaway.

From Mr Hadaway’s correspondence with the Council and in a letter to Council from the editor in chief of the newspaper, it seems the change was discussed with Mr Hadaway before the letter appeared, although there is disagreement as to the outcome of that discussion.

All newspapers have the right to edit letters to the editor for length, grammar and to ensure they are not defamatory. In this case, the newspaper made a minor change and then published Mr Hadaway’s letter in full.

The Council also noted that in the 29 February 2008, edition of the newspaper, Mr Hadaway appeared in a page one story about the easement and his concerns were prominently reported.
published unless there is an over-riding public interest.

5. Publications are free to advocate their own views and publish the views of others on controversial topics, as long as readers are readily able to 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.

6. Publications have a wide discretion in publishing material, but they should have regard for the sensibilities of their readers, particularly when the material, such as photographs, could reasonably be expected to cause offence. Public interest should be the criterion and, on occasion, explained editorially.

7. 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. Nevertheless, where it is relevant and in the public interest, publications may report and express opinions in these areas.

8. Where individuals or groups are singled out for criticism, 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 the appropriate section of the publication.

9. Where the Council issues an adjudication, the publication concerned should prominently print the adjudication.

The Council strives to ensure that its adjudications on complaints reflect both the conscience of the press and the legitimate expectations of the public.

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**ABOUT THE PRESS COUNCIL**

The Australian Press Council was established in 1976 with the responsibility of preserving the freedom of the press within Australia and ensuring the maintenance of the highest journalistic standards, while at the same time serving as a forum to which anyone may take a complaint concerning the press.

It is funded by the newspaper industry, and its authority rests on the willingness of publishers and editors to respect the Council’s views, to adhere voluntarily to ethical standards and to admit mistakes publicly.

The Council consists of 22 members. Apart from the chairman (who must have no association with the press), there are 10 publishers’ nominees, ten public members (7 attend each meeting), two independent journalists, a journalist representing the MEAA and a retired editor. The publishers’ representatives are nominated by metropolitan, suburban, regional and country newspapers and by magazines and AAP. The public is represented by people with no previous connection with the press.

The Press Council is able to amend its Constitution with the approval of its Constituent Bodies. Significantly, great importance is placed on members acting as individuals rather than as representatives of their appointing organisations.

**Complaints Procedure**

If you have a complaint against a newspaper or periodical (not about advertising), you should first take it up with the editor or other representative of the publication concerned.

If the complaint is not resolved to your satisfaction, you may refer it to the Australian Press Council. A complaint must be specific, in writing, and accompanied by a cutting, clear photostat or hardcopy print of the matter complained of, with supporting documents or evidence, if any. Complaints must be lodged within 60 days of publication.

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

Address complaints or inquiries to:

Executive Secretary
The Australian Press Council
Suite 10.02, 117 York Street
Sydney NSW 2000
Phone: (02) 9261 1930 or (1800) 02 5712
Fax: (02) 9267 6826
Email: info@presscouncil.org.au

A booklet setting out the aims, practices and procedures of the Council is available free from the above address. It, together with other relevant material, is available from the Council website: http://www.presscouncil.org.au/

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**MAILING LIST AND MAILING LABEL**

If you change address and would like to continue to receive the Press Council’s publications, or if there is an inaccuracy on the label, please advise the office of any such change.

Press Council publications will be sent by email to those who ask for delivery in that form. If you want the News sent direct to you, 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.

As the News and all adjudications are now published direct to the Internet, if you would prefer to access it that way and therefore want your name removed from the mailing list for the printed version, please so advise the Council’s office. The Council’s URL is http://www.presscouncil.org.au/