

NEWS

News by email

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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.

In a ceremony in Perth, the 2007 Prize at the Edith Cowan University was presented to the winner, Rifet Hrkic, by Council member Peter Jeanes.



On the Council

In October, Chris McLeod retired from the Press Council. The Council's Chairman noted, at the meeting, the long and singular contribution made by Mr. McLeod as a representative of the Herald and Weekly Times. He came to the Council as an alternate in 1990 and became the full member in 1991. Since then he has made a consistently strong contribution to the Council, especially in policy development and freedom of the press matters. As a result of his service, on behalf of the Council, the Chairman presented Mr. McLeod with the Australian Press Council Medal for outstanding service. (This was the second such award: the inaugural medal having been presented to a founder of the Council, David McNicoll). An interview with Chris McLeod about his time on the Council was published in the February 2003 *APC News*.

The Herald and Weekly Times has appointed John Trevorrow, the deputy editor of *The Herald Sun* as its new member.

Francesca Beddie, a public member of the Council since June 2003, offered her resignation to the December meeting. Having taken a role with the National Centre for Vocational Education Research, she found it left her with insufficient time to devote to the Council. The Chairman thanked her for her contribution to the Council.

Ms Beddie's resignation creates a vacancy on the panel of public members. As can be seen from the ad on page 6, the Council is seeking applications from interested members of the public in New South Wales, with expressions of interest to be received by the end of January.

Elections not biased

On 18 October, the Council launched its 2007 *Supplement* to the 2006 *State of the News Print Media in Australia* report. The most important original research conducted for the Australian Press Council and published in the Supplement found that there was no evidence of bias in newspaper coverage of the 2006 Victorian and Queensland state elections.

In the *Supplement*, the Press Council publishes summaries of original research it commissioned on the question, "Is newspaper coverage of elections biased?" Academic studies of *The Courier-Mail*'s coverage of the 2006 Queensland election campaign and *The Age*'s coverage of the 2006 Victorian election campaign found no bias. The basic intent of the studies was to gather empirical data relating to the possible bias of newspapers in election periods, an accusation frequently aired by all sides in politics, but the research went further, with evidence of such matters as a longer-term trend toward presidential-style elections, where reporting centres on the leaders, and where there is close control of the flow of information by political parties. The coverage illuminated the main issues in each state, even to the point of the newspapers, in the absence of opposition advocacy, analysing issues that ought to be addressed. In the case of *The Age*, such analysis continued through the election, while *The Courier-Mail* had largely defined the issues in its coverage of state politics leading up to the election.

Comments from the editor of *The Courier-Mail* on the analysis were published in the *Supplement*, and a more detailed critique of the research is published in this issue of the *News* on page 7.

The State of the News Print Media in Australia 2006, a report it issued last year, was based on a similar American analysis of its media. The Council intends to publish a full *State of the News Print Media* every second year. In the odd-numbered years it will issue a *Supplement*, which updates the report with recent developments. Unlike the full report, which is also available in hard-copy format, the 2007 *Supplement* will be available solely through the Council's website (http://www.presscouncil.org.au/snpma/index_snpma2007.html), with a downloadable pdf version also available on the site.

In addition to the original research on election coverage, the 2007 Supplement also contains:

- analysis of the latest trends in circulation, readership and usage of on-line news sites;

- comments on the recent changes in cross-media ownership rules and their impact;
- developments in newspaper on-line sites, including reports from Fairfax Media and News Limited on their moves towards a 'convergent' newsroom;
- discussion of some of the current ethical issues in the press, including the use of confidential sources; what's off-the-record; and when the press should use leaked material of doubtful origin; and
- an update on further legislative, administrative and judicial restrictions on the ability of the press to report matters of public interest and concern (and a few, very few, cases where there has been a easing of those restrictions).

In his Introduction to the Supplement, Council Chairman Professor Ken McKinnon notes that the year since October 2006 has seen enormous changes in the Australian media landscape. In particular, "The transition ... towards making news available on-line, involving the convergence of print, photography and video to tell vital stories, has ... become the settled way forward, although metropolitan companies are well in advance of regional and rural companies in implementing the new business model."

He also comments on one development that will affect the future of the Council itself:

"The Press Council is widening its remit to include Internet news sites that have, or wish to gain, reputations for accuracy, fairness and balance. The Council will accept applications for affiliation from any such sites willing to abide by both its long-standing Principles, and Privacy Standards, and willing to police some additional blog 'etiquette' requirements, covering civilised discourse, an absence of threats and extreme language, currently being finalised."

Privacy submission

The Australian Press Council has responded to the New South Wales Law Reform Commission's Consultation Paper, *Invasion of Privacy*, with a detailed submission.

The Executive Summary of the submission read:

The NSW Law Reform Commission has been asked to look at three particular matters in respect to privacy. Its consultation paper concentrates on one of those matters, the question of a putative statutory cause of action in privacy, while largely neglecting the other two matters:

- the question of national consistency in any privacy regime; and
- how best to harmonise the existing privacy regime in NSW.

The Australian Press Council's response to the consultation paper argues that there is no persuasive case for a statutory cause of action, and suggests that the question can only be properly addressed within the context of the other two specific terms of reference.

The full report is available on the Council's website.

Generic images

When generic or library photos of groups of children are used to illustrate news stories, do they carry with them implications that the children in the image have been subject to the events in the

story they illustrate? Are different standards used by some newspapers for reporting matters in Indigenous communities? Are images posted to social webpages such as FaceBook in the public domain and should newspapers be able to access them?

These are some of issues that the Council will debate in trying to determine whether there is a need for additional guidelines on the use of images of children in the press. Following the publication of Adjudication No. 1369 (page 10), the Council received several letters commenting on the finding about generic images in the adjudication. The Council has, as a result, asked the secretariat to draw up a paper on questions related to images of children in newspapers and table it in December. On the basis of that discussion the Council will determine whether further guidelines are required.

Public Right to Know campaign

The publishers and broadcasters, alarmed at the culture of secrecy in contemporary Australia, initiated the *Public Right to Know* campaign earlier this year. The first step was an audit of conditions impacting on the Australian media. The audit was heading by former NSW Ombudsman Irene Moss. Representatives of the audit visited the Council in late September to discuss matters of mutual interest. The Council passed along some of its own research on the topics of interest to the audit that the Council had put together over the past decade.

In early November, the audit team presented its report to the *Public Right to Know* campaign. It noted about 500 pieces of legislation, at the territory, state or federal level, which restricted media access to information, and the growing trend towards suppression of information by the courts. In particular it found that Freedom of Information laws were ineffective, due to costs, time delays and the imposition of conclusive certificates.

The audit report will be used as the basis of further action by the *Public Right to Know* campaign, which is now in the hands of the CEOs of the publishers and broadcasters. To assist the campaign with its efforts, the Council's Chairman has put forward proposals for actions that the campaign can now initiate, and met with Creina Chapman, from News Limited, to discuss these proposals. The Council sees as priorities the reform of FoI law and practice, and the opening up to public scrutiny of government information generally; the enactment of effective shield laws that will enable journalists to protect their confidential sources; and changes to court procedures to ensure that information from open courts are available to the public through the media.

Visitors

In recent months, the Council has received a number of visitors:

In October, a delegation of 14, headed by Hou Zhengxin, the Deputy Director General of the General Administration of Press and Publication of the People's Republic of China, visited the Council for discussions;

In early November, the Chairman, Cho Joon Hee, and members of the Korean Press Arbitration Commission met with the Council's Chairman and Executive Secretary; and

The Executive Secretary met with Jaelea Skinner from the Hunter Institute for Mental Health, who expressed some concern that, with a number of recent self-harm incidents, including a couple of celebrity cases, the previously high standards in the press for the reporting of suicide might be slipping.

Contempt

In a recently decided case in Western Australia, Paul Armstrong, the editor of *The West Australian*, had been charged with contempt after the publication of a letter to the editor. He was exonerated and judgment now stands as an incontrovertible declaration of the right of the press to publish material critical of judicial processes and, moreover, of the public benefit in the exercise of that right.

The letter appeared in *The West Australian* on 11 December 2006, while the relevant trial was in its closing stages. On the same day the trial judge discharged the jury on the grounds that the letter had caused such a significant degree of prejudice to the accused that the prejudice could not be cured by any directions to the jury.

In finding that *The West Australian's* publication of the letter had not prejudiced the administration of justice, WA Chief Justice Wayne Martin made a definitive statement of the importance of the public right to criticise judicial processes:

The efficient administration of justice depends heavily upon public confidence in the fairness and integrity of the processes employed. Public confidence in the integrity of the judicial process requires that conduct which, as a subject to the limited constraint imposed by the law of contempt to which I have referred, every member of our society must be free to express his or her view in relation to the adequacy and propriety of the systems and processes used in the administration of justice. It is the function of the courts to protect the freedom of that debate, irrespective of the stridency of the criticisms that may be directed to the courts in its course. Public confidence in the courts and in the administration of justice requires nothing less.

Justices Wheeler and Miller joined with Martin in dismissing the motion for contempt on the basis that the jurors would have been capable of reading the letter without being consequently prejudiced against the accused. However, Miller JA expressed a degree of caution, commenting that it was 'unwise' to publish the letter during the final days of the trial, the publisher having been aware that the letter related to a trial in progress at the time of publication.

However, this view was rejected by the Chief Justice who responded with an unequivocal expression of support for the press's right to publish without interference from the judiciary:

Reporting of, and commentary upon, legal proceedings serves a vital public interest, by providing information to the public about what is occurring in our courts. Such publications should only be constrained when it is established, beyond reasonable doubt, that they have the proscribed effect upon the administration of justice to which I have referred. That is why, with respect, I do not share the view expressed by Miller JA that it is highly undesirable for a newspaper to publish letters to the editor which contain material relating to a criminal trial which is being conducted at the same time. In my respectful opinion, it is no part of this Court's function to advise editors of newspapers what is desirable or wise.

The press, notwithstanding these comments, will always have a

moral responsibility to be mindful of the impact of published material on the course of legal proceedings. However, Chief Justice Martin's judgment, in particular, stands as a significant recognition of the validity of the media's role in scrutinising the legal system and of the right of the media to publish material critical of the judiciary.

Freedom of Information

There has been movement on FoI reform in two states and at the federal level.

Just before the federal elections were called, the federal Attorney-General referred the issue of FoI reform to the Australian Law Reform Commission. The in-coming government has undertaken to reform FoI law as one of its priorities. Whether that will mean the cessation of the ALRC inquiry or not remains to be seen. The ALRC has on the books a series of recommendations from 1996, which were not taken up by the Coalition government but which the Press Council suggests could be the basis for meaningful reform of the law. On one issue the new government has been clear: it intends to abolish the use of conclusive certificates that enable Ministers to suppress information that would otherwise be available under FoI law. After the then Prime Minister John Howard indicated that a more open policy was likely to emerge during the election campaign, the Council's Chairman wrote and opinion piece for *The Australian* on this promise and the ALP's promised reforms. The article was published on Thursday 25 October under the heading, *Secrecy impedes informed discourse*.

The new Premiers in Victoria and Queensland have also undertaken to review FoI law and practice in their states. The Queensland government has also initiated an inquiry into reform of FoI legislation. It is to be headed by David Solomon, formerly the head of the Electoral and Administrative Reform Commission and a former contributing editor of *The Courier-Mail*. Mr Solomon has sought from the Council input into his inquiry.

Things are not as rosy in Western Australia, where the government has replaced the independent FoI Commissioner with a former member of staff of the Cabinet Office. How this will impact on the Commissioner's ability to act as a reviewer of the actions of Ministers and officials who refuse to grant FoI requests will have to be seen.

Case Studies Seminars

Over the past decade the Council has been conducting Case Studies seminars at various universities. The purpose of these case studies is to give the participants at the seminars an opportunity to simulate the Council's adjudication process, applying the commonly accepted ethical principles of reporting in factual situations. The cases are based on matters adjudicated by the Council so participants have the opportunity of seeing how the Council itself judged the matter.

On such seminar was held recently at Monash University and a student there, Elisa Dimas, has submitted this report.

What do you get when you throw journalism students, Australian Press Council members and contentious photographs, articles and the public complaints about them all together? A healthy and enlightening debate about media ethics, that's what. And

that's exactly what occurred on 29 August when more than 30 media ethics students attended an Australian Press Council seminar at Monash Caulfield.

Led by Council Vice-Chairman, Professor Hoong Phun Lee, the seminar invited students to step into the shoes of Council members by debating contentious ethical issues in real-life complaints and adjudications. Prue Innes, the Council's newest member, provided insight from a former journalist's perspective.

The seminar emphasised the highly subjective and challenging nature of adjudicating complaints, especially where personal tragedy and privacy are concerned, and allowed students to question their own findings as well as those of the Council. Case studies included Adjudication No. 1119 in which the Council upheld complaints against *The Cairns Post* regarding the front-page photo of a murder scene in Ravenshoe, a small town just outside Cairns. This was contrasted with complaints against depictions of foreign carnage, such as *The Sydney Morning Herald's* publication of large colour photographs showing the grisly aftermath of a Tel Aviv bomb attack. The examples raised questions about when an individual's interest outweighs the public interest and the difference between publishing photographs of foreign carnage and local tragedy.

Students were encouraged to explore the intricacies of what constitutes ethical and unethical media practice and grapple with the challenge of providing a definitive finding.

Professor Lee also discussed the Council's role in the Australian media industry. He argued that despite critics questioning the use of a regulatory body with no disciplinary powers, the Council's power lay in its ability to affect journalists' standing amongst their peers. "The notion of the APC as a 'toothless tiger' doesn't stand up under scrutiny," he said.

Professor Lee commended the students' participation, saying he was impressed by the level of debate and discussion.

The seminar was organised by Shane O'Neil of the journalism section of the School of Humanities, Communications and Social Sciences.

The final report on the 2007 series and a summary of the review of the case studies has been discussed by the Council, which endorsed the continuation of the case studies for 2008. It commended the work done by Office Manager, Deborah Kirkman, who coordinates the seminars.

Privacy Standards

The Council has received notice from *ninemsn*, a major on-line news publisher, that it is publicly committing to the Privacy Standards for the Print Media. Under the federal privacy Act, media organisations can claim an exemption for acts of journalism, provided such organisations are publicly committed to a set of privacy standards. For some years, the Privacy Standards for the Print Media have covered the on-line news sites of the Council's publisher members but *ninemsn* is the first solely on-line publisher to commit to the standards.

Conciliations

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.

An industry association complained about inaccuracies published by a metropolitan newspaper. The inaccuracies had an adverse effect on the complainant's business. The parties, with the assistance of the secretariat, agreed on a suitable letter to the editor to be published with prominence.

A country newspaper published a file photograph of a complainant's house. The photograph was used to illustrate the dangers of not having protection against termites. The complainant pointed out that the photograph was incorrectly captioned. The house was meant to be an example on how to protect your home from termites. A correction was published in the next issue.

A national newspaper published an article that incorrectly described the complainant company as "Liberal Party spin doctors" and misrepresented a company report. The newspaper immediately published a prominent correction of the inaccurate material.

A local government councillor was upset that his comments were not sought for inclusion in an article that was critical of him. The regional daily newspaper published the complainant's letter in full, and offered the councillor a follow-up article based on an interview with him.

A Sunday metropolitan published an article that misrepresented a religious group and its leader in a digitally manipulated photograph. The editor's response satisfied the complainant, who withdrew all aspects of his complaint except for the photograph. The paper undertook to place a suitable note on the file image noting that it had been digitally altered. This action satisfied the complainant.



Applications are invited from interested persons in New South Wales for appointment to the Australian Press Council panel of public members, representing the public. Such members attend about six Council meetings each year.

The Council is concerned with the maintenance of the freedom and the responsibility of the press and to that end adjudicates on complaints against the press, and considers matters affecting its freedom.

The Constitution of the Council provides that public members shall be appointed from persons otherwise unconnected with the press.

Further information may be obtained from the office of the Council:

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Applications should be addressed to the Executive Secretary, to reach him by **25 January 2008**.