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SUBMISSION TO THE ENVIRONMENT AND COMMUNICATIONS
LEGISLATION COMMITTEE INQUIRY INTO THE MEDIA REFORM BILLS
2013

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I write this brief submission with regard to the News Media (Self regulation) Bill 2013.

As Australian correspondent for Reporters Without Borders (RSF), I am concerned that organisation has been cited by both the Prime Minister and the Minister for Communications in recent days in support of statutory regulation of the media.

Specifically, both have used the example of Finland - number one on RSF's World Press Freedom Index - which does indeed have a government-backed device for review media complaints-handling.

However, there are two crucial differences between the Australian and Finnish models:

a. Freedom of expression and the right of access to information are enshrined in the Constitution of Finland at Section 12 which states: "Everyone has the freedom of expression. Freedom of expression entails the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone."

b. Unlike the Australian proposal, the Finnish model does not propose the imposition

of a privacy compliance regime upon newspaper organisations who choose not to join its self-regulatory system. Such a proposal - with its inherent expense and onerous daily paperwork under the Privacy Act provisions - would place a news organisation at a competitive disadvantage to all others in its market and, for many, would be an insurmountable budgetary imposition. This would amount to a de facto form of prior restraint and thus would be contrary to the Finnish constitutional protection cited above.

Australia has no written Constitutional guarantee of free expression or a free media. It has only an implied freedom to communicate on matters of politics and government developed by the High Court, which itself might well render this Bill problematic.

This is a key difference between these countries and informs the relative rankings of the two countries in the 2013 World Press Freedom Index, where Finland is indeed ranked at number one and Australia is ranked at number 26.

Recent government inquiries and their proposals for tougher regulation in the absence of free expression protections informed Australia's most recent ranking, against a background of hundreds of laws already restricting the media in Australia.

I do hope this assists you with your deliberations.

Yours sincerely,

Mark Pearson