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Secretary:.....

Parliamentary Joint Committee on Intelligence and Security  
Parliament House,  
CANBERRA ACT 2600  
[pjcis@aph.gov.au](mailto:pjcis@aph.gov.au)

ATTENTION: Jane Hearn, Inquiry Secretary

June 28, 2006



**Re: Australian Press Council comments in response to the recommendations of the Sheller Inquiry**

Dear Ms Hearn,

I refer to your letter of 16 June requesting a submission in response to the recommendations of the Sheller Inquiry. Please find attached a brief document which sets down the Australian Press Council's views with respect to those recommendations which would appear to have potential relevance to the media.

Thank you for giving the Press Council an opportunity to participate in the review of the security legislation.

Yours faithfully,

Professor Ken McKinnon  
Chairman  
Australian Press Council

## **Australian Press Council Submission to the Parliamentary Joint Committee on Intelligence and Security commenting on the recommendations of the Sheller Inquiry**

The legislation which is the subject of the Sheller committee's inquiry affects the media only indirectly. However, legislation which aims to make Australia secure from the threat of terrorism may have consequences which were unintended or unanticipated by the drafters. To the extent that the legislation does affect the media, the Australian Press Council is concerned to ensure that freedom of expression is not threatened.

Certain aspects of the legislation may have some negative impacts upon press freedom. Two of the Sheller committee's recommendations, if adopted, would help to minimise such negative effects. For that reason the Australian Press Council supports those two recommendations, as follows:

### ***Recommendation 14: section 02.7 – providing support to a terrorist organisation***

The Sheller Committee recommends that s 102.7 of the Criminal Code be amended to ensure that "providing support to a terrorist organization" cannot be construed to apply to the publication of views which appear favourable to a proscribed organisation and its stated objective.

The Press Council supports this recommendation. An excessively broad definition of "providing support to a terrorist organization" would have the potential to act as an impediment to free speech. The media must be free to comment critically upon government action and on the conduct of foreign governments. It will be inevitable, at times, that such commentary will provide comfort to dissident groups, even if this is unintended. In order to ensure that media organisations are not placed under pressure to self-censor, it is important that the notion of providing support to terrorist organisations be defined narrowly. In the alternative, clear defences must be included in the legislation to exempt the publication of news reports and commentary.

### ***Recommendation 9: Abolition of s 102.1(1A)(c)***

The Press Council acknowledges the Joint Committee's advice that section 102.1 of the Criminal Code will be the subject of a separate review in 2007. However, the Press Council nonetheless provides the following comment in response to the Sheller Committee's recommendation:

The Sheller committee recommends the abolition of sub section (c) of section 102.1(A) of the Criminal Code.

- (1A) In this Division, an organisation advocates the doing of a terrorist act if:
  - (a) the organisation directly or indirectly counsels or urges the doing of a terrorist act; or

- (b) the organisation directly or indirectly provides instruction on the doing of a terrorist act; or
- (c) the organisation directly praises the doing of a terrorist act in circumstances where there is a risk that such praise might have the effect of leading a person (regardless of his or her age or any mental impairment (within the meaning of section 7.3) that the person might suffer) to engage in a terrorist act.

The Press Council supports this recommendation. Paragraph (c) would bring into the definition of "advocates" comments which may be in the nature of rhetoric, hyperbole or satire. Editorial columns which proffer critical opinions on foreign policy or political conflicts outside of Australia could also conceivably fall foul of this definition, depending on how broadly the definition of "terrorism" is construed. The inclusion of subsection (c) in the definition of "advocates" would have a tendency to act as an impediment to free speech, by inducing publishers to engage in self-censorship.

An obvious example of where a publisher might find themselves in breach of this provision would be in the publication of commentary on the activities of organisations involved in the liberation of nations subject to foreign occupation or oppressive governments. If terrorism were to be particularly broadly interpreted, even commenting positively on minor acts of civil disobedience might be construed as "advocating terrorism".