



**Australian
Privacy
Foundation**

mail@privacy.org.au

<http://www.privacy.org.au>

MEDIA RELEASE

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Media need not fear Privacy Proposals

The Australian Privacy Foundation supports the NSW Law Reform Commission's recommendation that individuals should be able to sue for invasions of their privacy.

"Remedies could be sought if a person invaded someone else's privacy, and that individual was reasonably entitled to expect that their privacy should have been protected, taking into account all important public interests", said Professor Graham Greenleaf. [See s.74(2) of the LRC Report]

Under the proposals, there are 9 factors that must be considered by the court, and the court has discretion to take into account any other factors it sees fit [ss.72(3)-(4)]. There are a further 11 categories of defence against the action [s.76]. Beyond those 20+ protections, the uncertainty that the media currently faces is removed, by abolishing any court-made tort law that may have been emerging [s.80].

The Australian Privacy Foundation (APF) supports the draft law because it provides practical protections for privacy, but is carefully balanced with the public's need to know, and the legitimate and vital news and current affairs role of the media.

Prof. Greenleaf said that the proposed laws would provide remedies against unjustifiable privacy invasions by commercial organizations, governments, and individuals misusing Social Networking Services, as well as those by the media. "Journalists and media companies need to understand the whole report and the many protections it provides to them", he said. "In reacting against the proposals, they are failing to take an objective view of how everyone's interests should be balanced".

Prof. Greenleaf said it will also help to achieve the right balance if Privacy Commissioners are given a role in conciliating these types of complaints, in order to keep cases out of the courts unless they really do demand attention from a judge. In addition, Privacy Commissioners should have the right to appear in court cases.

The APF's 'Privacy and the Media' Campaign is at <http://www.privacy.org.au/Papers/Media-0903.html>

Reference: NSW Law Reform Commission Report 120: Invasion of privacy:
http://www.lawlink.nsw.gov.au/lawlink/lrc/ll_lrc.nsf/pages/LRC_r120toc

Contact for This Media Release: Prof. Graham Greenleaf, graham@austlii.edu.au, (02) 9569 5310