

From: Australian Law Reform Commission [web@alrc.gov.au]

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Proposal 4.1:

Agreed.

Proposal 4-2 :

Agreed.

Proposal 5-1 :

Agreed.

Proposal 5-2 :

Agreed, however a clear definition, or (non-exhaustive) examples of "intentional or reckless" should be included to counter potential false "negligent invasion" defences.

Proposal 5-3 :

Agreed.

Proposal 5-4 :

Agreed.

Proposal 6-1 :

Agreed.

Proposal 6-2 :

Agreed, other things may include:

- the extent to which the plaintiff knew the information was held, and where.
- the extent to which the plaintiff, at the time, was aware, if at all, that his or her privacy was being invaded.
- the extent to and means by which the plaintiff was directly informed about how to manifest a desire not to have his or her privacy invaded, if at the time the plaintiff was aware that his or her privacy was being invaded.

Proposal 7-1 :

As 'serious' would be a highly subjective consideration and 'a person of ordinary sensibilities in the position of the plaintiff' is hypothetical, it may benefit to include a definition, or (non-exhaustive) examples of "serious invasion of privacy" for the purpose of the Act.

Proposal 7-2 :

Agreed.

Proposal 8-1 :

Agreed.

Proposal 8-2 :

The new Act should consider public interest matters contained in Freedom of Information laws (across various jurisdictions) and any other relevant statutes in determining the non-exhaustive list.

Proposal 9-1 :

Agreed.

Question 9-1 :

It would be appropriate for Civil and Administrative Review, Anti-Discrimination, and any other Tribunals that currently hear human rights matters to have jurisdiction as there may be an inter-relationship to listed cases, the Tribunals are equipped to mediate and hear such matters and it would provide an avenue of Alternative Dispute Resolution (ADR), with the option of Judicial Review performed by a Court. This would allow for matters to be reconciled without the requirement for Court action.

Proposal 9-2 :

Agreed.

Proposal 9-3 :

Agreed.

Proposal 9-4 :

Agreed.

Proposal 9-5 :

Agreed, however if there is no requirement to first take reasonable steps to resolve the dispute without litigation or enter alternative dispute resolution this should not influence a decision as it presumes the plaintiff's awareness about alternative avenues of redress.

Proposal 10-1 :

Agreed.

Proposal 10-2 :

Agreed.

Proposal 10-3 :

Disagreed, such privilege is conferred under the Acts to which it is relevant.

Proposal 10-4 :

Agreed.

Question 10-1 :

Yes.

Proposal 10-5 :

This should not be necessary as public documents should not, by nature of them being public, constitute an invasion of privacy. However there should be an avenue for consideration about whether documents have been made public documents erroneously and maliciously, thereby constituting an invasion of privacy.

Proposal 10-6 :

Not necessary.

Question 10-2:

Yes.

Proposal 10-7 :

Agreed.

Question 10-3 :

- show warnings about the risks of posting private information.
- show warnings about the potential consequences of posting material that invades a person's privacy.
- show a lack of awareness or knowledge of the offending content hosted on their site.
- show that when given notice, the host has taken reasonable steps to remove (or has removed) the material that invades a person's privacy, and taken reasonable steps to block the material that invades a person's privacy from being republished.

- comply with relevant industry codes and obligations under the *Privacy Act 1988* (Cth).
- provide individuals with a mechanism to remove private content.
- provide a privacy complaint system that informs reasonable response timeframes and avenues for review of decisions, along with relevant legislation.

Proposal 11-1:

Agreed.

Proposal 11-2 :

Agreed, however consideration should be given to:

- the nature of an apology (private or public)
- the timeliness of a correction
- the terms of an amendment
- the terms and conditions and amount of agreed or actual compensation
- the timeliness of reasonable steps to settle taken by a defendant
- whether the plaintiff was aware of, and able to take reasonable steps to settle the dispute prior to commencing or continuing proceedings in order to avoid litigation with the defendant

Proposal 11-3 :

Agreed.

Proposal 11-4 :

Agreed.

Proposal 11-5 :

Agreed.

Proposal 11-6 :

Agreed.

Proposal 11-7 :

Agreed.

Proposal 11-8 :

Agreed.

Proposal 11-9 :

Agreed.

Proposal 11-10 :

Agreed.

Proposal 11-11:

Agreed.

Proposal 11-12:

Agreed.

Proposal 11-13 :

Agreed.

Question 11-1 :

As per PIAC submission - Courts should be empowered to make orders protecting litigants from adverse costs orders.

Proposal 12-1 :

Agreed.

Proposal 12-2 :

Agreed.

Proposal 13-1 :

Agreed.

Proposal 13-2 :

Agreed.

Proposal 13-3 :

Agreed.

Proposal 13-4 :

Agreed. A Whistleblower defence should also be included.

Question 13-1 :

The Commonwealth should legislate to cover the field.

Proposal 13-5 :

Agreed.

Question 13-2 :

Yes.

Proposal 14-1 :

Agreed.

Proposal 15-1 :

Agreed.

Proposal 15-2 :

Agreed.

Question 15-1 :

- require the APP entity who receives the request to provide the requesting individual with a list of third parties who have received the information

- require the APP entity who receives the request to notify any third parties with which it has shared the information that the request has been made

Question 15-2 :

Yes.

Proposal 15-3 :

Agreed.

Other comments:

Given the Australians' desensitisation to saturated commercial broadcasting and advertising, there should be a requirement for regular commercial television and radio prime time announcements (delivered in plain english) about proposed law reform inquiries, in order that broader community involvement may be realised .

File 1: