



04 May 2010

Privacy Submissions
Law Commission
PO Box 2590
Wellington 6140

Via Email: privacy@lawcom.govt.nz

SPADA's Submission on the Law Commission's Review of the Privacy Act 1993 – Review of the law of privacy stage 4

Preliminary

1. The Screen Production and Development Association ([SPADA](#)) welcomes the opportunity to respond to the Law Commission's Review of Privacy Stage 4 of the Privacy Act 1993.
2. Formed in 1982, SPADA is a non-profit, membership-based organisation representing a large body of broadcast media companies, including many of the largest and longest standing companies who supply programmes to all New Zealand broadcasters.
3. SPADA's contact person for this submission is:

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EXECUTIVE SUMMARY

1. As outlined in SPADA's submission on Stage 3 dated 15 June 2009; SPADA is of the opinion that New Zealand's media law and jurisprudence functions reasonably well in regard to privacy. By and large, privacy cases dealt with through the Broadcasting Standards Authority (BSA), or in the few cases that have reached the Courts, are done so fairly and skillfully.
2. The main area of relevance to SPADA members in Stage 4 of the review of the law of privacy relates to Chapter 5: Exclusions and exemptions.
3. SPADA will now respond to specific questions raised in Chapter 5.

CHAPTER 5 – Exclusions and exemptions

Q64 We propose that the exclusion of the news media in relation to their news activities should remain in the Privacy Act. Do you agree?

Yes.

Q65 We propose that the definition of "news activity" should remain as it is. Do you agree?

Yes. SPADA agrees with the paper that the line between news and entertainment is no longer completely distinct with the emergence of new genres; and that it is best to make judgments calls on a case-by-case basis.

Q66 Do you think the definition of "news medium" should be amended to confine it to print and broadcast media? Alternatively, should be it be [sic] confined to news media that are subject to code of ethics and complaints procedure?

No. SPADA acknowledges the difficulty in determining the boundaries of the term "news medium". In particular with the ever expanding alternative media such as blogs and websites. However, SPADA does not believe that it is desirable to restrict the meaning of "news medium" to print and broadcast media. As is already the case (privacy Act 1988 (Cth)) a provision exists which provides that a news medium can only benefit from the exclusion if it is subject to a code of ethics and to a complaints procedure administered by an appropriate body. In the case of broadcast media that body is the BSA.

The body of knowledge that has been built up at the BSA, and the broadcasting industry's understanding of how to respond to and integrate those decisions in ongoing work, are significant positives. It is both an established forum for complaint, and a system that provides disincentives that are appropriate for the functioning of a healthy, independent media, at a much lower cost than court processes. However, the only proviso that SPADA would make is that some SPADA members have expressed concern about a perceived increasingly imbalance in favour of protecting individual privacy in the way the BSA applies its privacy principles.

Q67 We propose that the limiting reference to Radio New Zealand and Television New Zealand should be removed from the definition of "news medium". Do you agree?

SPADA endorses the paper's recommendation to remove the limiting reference to RNZ and TVNZ from the definition of "news medium".

Q68 Are any other changes needed to the exclusions from the definition of "agency"?

No.

Conclusion

As noted, SPADA is of the general opinion that New Zealand's media law and jurisprudence functions reasonably well, and in regard to privacy, we have yet to see any cases that involve notable miscarriages of justice.

By and large privacy issues are dealt with through the BSA, striking an appropriate balance between the interest of those making and broadcasting programmes, the public interest of viewers watching them and those that find themselves the subject of them.

SPADA would once again like to thank the Law Commission for this opportunity to comment on the Review of the Privacy Act 1993 – Review of the law of privacy stage 4. If you would like to discuss any aspects of this submission please contact us on +64 4 939 6934.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Penelope Borland', written in a cursive style.

Penelope Borland
Chief Executive Officer
SPADA

