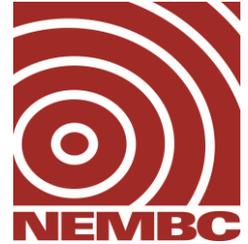


Submission



Senator the Hon George Brandis QC
Attorney General

Sent to: s18cconsultation@ag.gov.au

Subject: Racial Discrimination Act proposed changes

Dear Mr Brandis,

We the undersigned are the Executive Officers of the National Ethnic and Multicultural Broadcasters' Council, representing ethnic and multicultural community broadcasters nationally. Our members broadcast from 130 community radio stations around Australia. Every week 125 distinct cultural groups broadcast over 2000 hours of programming in 108 different languages.

We strongly urge the Federal Government to retain the current protections of the Racial Discrimination Act. The present legislation should be retained because it is strong, clear, fair, and a successful protection against racial vilification. It also protects freedom of speech by recognising fair and accurate reporting, or reasonable statements made in good faith as part of public discussion. The present Act is a defining piece of legislation affirming Australia as a nation that's democratic and culturally and racially diverse. It's a barometer for society of what's acceptable.

Many of our members have first-hand experience of racial vilification. Our communities struggle against offensive slurs, humiliating jokes and harmful stereotypes. Maintaining the current protections will help to keep in check public statements that could stimulate or inflame aggressive behaviour. Ethnic communities through the 1950's and 1980's experienced the well-known taunts of 'wog' and 'dago'. These established communities welcomed the introduction of the Racial Discrimination Act in 1975 and the Race Hatred Laws in 1995. Recent arrivals are experiencing similar harmful stereotyping and are experiencing a heightened level of violence. Two well-known examples are the 2005 Cronulla riots and the recent attacks in Melbourne on Indian students from 2008 to 2011. A growing number of surveys also show that Australia is becoming less tolerant and isolated racial assaults are increasing.

The costs of racism and particularly slurs through the media can create lasting damage on individuals and communities. Discrimination can have lasting emotional effects and can lead to poorer self-esteem. Associated stress can have significant negative impacts on people's physical and mental health and wellbeing. As well as psychological damage to each individual, vilification takes a social toll by making us doubt our rights to be visible, to be heard, and to be Australian.

As broadcasters, we truly understand the importance of free expression. Giving our own communities self-representation in the public sphere has been critical in building our sense of belonging in the face of marginalisation, misrepresentation and under-representation in mainstream media. We also understand our responsibility as media producers to make content that is fair, accurate, reasonable and in good faith. Indeed, we endeavour to produce media that contributes to society in a positive way.

We believe that Sections B, C, D and E of the Racial Discrimination Act strike a fair and firm balance between freedom of speech, and protection from vilification. These laws against racial vilification have operated successfully since 1995, providing an accessible legal means for addressing vilification on the basis of race, colour or national or ethnic origin. There is no compelling reason to change the Act.

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The proposed changes will offer substantially less protection, and send a message that it is acceptable to insult or humiliate people because of their race. The changes will make racial vilification very hard to prove, and lawyers suggest hardly any cases will be upheld. Racial insults, offenses and humiliation will be acceptable unless we can prove that they 'incite hatred' or 'cause fear of physical harm'. We believe that defining intimidation as 'to cause fear of physical harm' fails to recognise that fear of humiliation can drive people to lead circumscribed lives, avoiding public space and doubting their right to be active participants in the future of our nation.

We also oppose the new wording which states that the standards for deciding if something is an offence will be based on how 'an ordinary reasonable member of the Australian community' would feel, not the standards of 'any particular group within the Australian community'. We believe decisions should consider whether an ethnic community generally understands something to be vilification.

From a media perspective, it seems the new laws will allow almost anything said in the course of public discussion, even if it is not in good faith, perhaps even if it is deceptive or lacking in facts and fairness, as was the case in Andrew Bolt's columns. Of particular concern is that the proposed changes could give free rein to Holocaust denial and other forms of anti-Semitism.

We ask what instances of hate speech the new Act could actually curtail, given that the Act has never applied to private acts. We wonder too how grossly some media personalities must misunderstand free speech, if they believe that racial insults are such an essential part of it. As Professor Emeritus Gary Bouma AM has said, 'No robust discussion requires the denigration and dehumanisation of the other'.

We strongly urge against the proposed changes to the Act which will give license to racial hatred and irresponsible reporting and have the potential to cause significant harm to individuals and communities.

Yours faithfully,

Dr Tangi Steen, NEMBC President, (SA)



Nick Dmyterko, Vice President, (Qld)



Cristina Descalzi, Secretary (SA)



Joe De Luca, Treasurer (NT)

