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Senate Committee of Privileges

**STATEMENT OF MARK SCOTT  
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Senator Faulkner and Member of the Committee:

Fairfax appreciates the invitation by the Committee to appear before your hearing today.

These are important issues. We hope the Committee will want to remove the threat of contempt against publishers for doing their job: reporting to our readers on the activities of their representatives and their institutions and agencies of Government.

Fairfax is publisher of *The Sydney Morning Herald*, *The Age*, *The Australian Financial Review*, *The Sun-Herald*, regional and community newspapers, and other publications, magazines and websites. On average, our publications and websites reach over 2.2 million Australians each day.

We are pleased to respond to the Committee's review of unauthorised disclosure of parliamentary committee proceedings, documents and evidence.

As this Committee recalls, *The Age* was most recently involved in such an inquiry by the Committee in 2002-03.

The Committee could find no contempt of the Senate against *The Age*, its publisher, editor or the journalist involved.

That experience informs our views of the issues being considered by the Committee.

There are three key points we want to make this morning

*First, there is no basis for a finding of contempt of Parliament against a publisher, its mastheads, editors or its journalists for publishing material regarding parliamentary committee proceedings, documents and evidence.*

It is inherently the nature of the media in a free society to investigate, to probe, to reveal and thereby help ensure accountability of public officials and government institutions.

We have a decided bias to publication – and not to withhold from publication. This is what we do. This is our job. This is our public trust.

If parliamentary committee proceedings, documents and evidence are made available to journalists, or are uncovered by journalists, a publisher has every right – indeed, a responsibility in fulfilment of our public trust – to publish, and to publish without fear of intimidation or retribution by Parliament or the Government.

In short, we are firmly to the view that publication of such materials should be decriminalised.

*Second, with regard to the specifics of the existing rules and how they work, there is no basis for a finding of contempt of Parliament against a publisher on the grounds that publication interferes substantially with the work of a committee, if what is published is a news story regarding a final – but not yet publicly released – report by a committee.*

It is impossible to substantially interfere with the work of a committee on a report if that report is completed, but simply not yet tabled. This was one of the particulars reviewed in this Committee’s investigation of *The Age* in 2002.

The Committee in fact found that, “It was difficult to establish ... that the unauthorised disclosure actually caused substantial interference with the ECITA Committee’s work ... the damage done to the ECITA Committee in this instance was at most minimal.” (Committee on Privileges, 112th Report, February 2003, at 11.) This was the correct conclusion, as we had asserted all along.

*Third, any party who makes a submission to a Committee of Parliament should have the right to disclose their submission publicly, without the permission of the Committee.*

We do not understand why we – or any other citizen, association, interest group or corporation – should be subject to a contempt proceeding for seeking dissemination of our views without waiting for the Committee’s approval. Such an enforced period of silence is a denial of free speech. We believe these rules harm the public interest by inhibiting the free flow of information and debate on important public policy issues.

The Senate will undoubtedly continue to decide its standards of official conduct for Members and staff with respect to disclosure of parliamentary committee proceedings, documents and evidence.

What we are engaged in today will hopefully lead to the Senate’s drawing a new line between the rules and privileges of the Senate and the rights of a free press in a free society.

Thank you.