



**MEAA SUBMISSION TO THE SENATE ECONOMICS
LEGISLATION COMMITTEE'S INQUIRY INTO THE
*TREASURY LAWS AMENDMENT (ENHANCING
WHISTLEBLOWER PROTECTIONS) BILL 2017***

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About MEAA

The Media, Entertainment & Arts Alliance (MEAA) is the union and industry advocate for Australia's creative professionals.

The MEAA Media section includes journalists and others who work in the media industry.

Journalist members of MEAA Media are bound by MEAA's [*Journalist Code of Ethics*](#).

www.meaa.org

Introduction

The Media section of MEAA (hereafter MEAA) welcomes this opportunity to assist the committee's inquiry into the *Treasury Laws Amendments (Enhancing Whistleblower Protections) Bill 2017* (the Bill).

MEAA believes that extending whistleblower protections is an important step to ensuring proper scrutiny of powerful people and organisations as well as ensuring open and transparent government that is answerable to the community. The role of journalists in a healthy functioning democracy is to apply that scrutiny and to report matters of legitimate public interest to the community.

MEAA believes the protections being introduced in the Bill are a promising advance in ensuring that whistleblowers have an avenue to raise their concerns and MEAA firmly believes that journalists and the media are a legitimate outlet for whistleblowers who seek to expose fraud, corruption, threats to public health and safety, dishonesty and other forms of illegality and wrongdoing.

However, MEAA believes that the Bill offers an anachronistic view of how journalists and the media operate and this must be remedied before the Bill is enacted.

Definition of “journalist”

The Bill defines a journalist as:

- a person who is working in a professional capacity as a journalist for any of the following:*
- (a) a newspaper or magazine;*
 - (b) a radio or television broadcasting service;*
 - (c) an electronic service (including a service provided through the internet) that:*
 - (i) is operated on a commercial basis; and*
 - (ii) is similar to a newspaper, magazine or radio or television broadcast.*

The Bill's definition above appears to exclude electronic services that are not operated on a commercial basis.

Many independent freelance journalists self-publish legitimate news stories on the internet without a commercial transaction taking place.

The Bill's Explanatory Memorandum may go some way to explaining why this antiquated definition has been utilised in the Bill.

2.60 In providing protection to disclosures to a journalist working in professional capacity, the amendments make clear that disclosure to any 'journalistic' or 'media' enterprise is not sufficient. This is intended to ensure that public disclosures on social media or through the provision of material to self-defined journalists are not covered by the protection.

The Memorandum seems to be overly concerned with applying a rigidly archaic definition of journalist that is not only out-of-step with current practice but which also aims to muzzle legitimate news reporting by journalists of whistleblower concerns. Stifling information flow should not be the aim of legislation intended to afford protections for whistleblowers. Indeed, the opposite is true – if a whistleblower has made contact with a journalist then that contact and the information that has been exchanged should be afforded the same comprehensive protections regardless of the individual platform or the individual journalist selected by the whistleblower.

The nature of the digital disruption that has transformed the media industry is that an increasing number of journalists are operating in this fashion and to apply the requirement that a web site must operate commercially fails to acknowledge the reality of the way the media has changed.

As MEAA and other media organisations noted recently, in the submission to the Parliamentary Joint Committee on Intelligence and Security regarding the *National Security Legislation Amendment (Espionage and Foreign Interference) Bill 2017*, there are various definitions of 'journalist' in Commonwealth legislation including s.126J of the *Evidence Act 1995*:

- “journalist” means a person who is engaged and active in the publication of news and who may be given information by an informant in the expectation that the information may be published in a news medium; and
- ‘news medium’ means any medium for the dissemination to the public or a section of the public of news and observations on news.

Recommendations

We encourage the Committee to recommend the use of a consistent definition of “journalist” and “news medium”, and MEAA supports the definitions in the *Evidence Act* as being suitable to be used in the Bill.

MEAA supports the removal of the requirement that an electronic service would have to operate on a commercial basis.

And MEAA expects that the Bill will be drafted to ensure that protections are available to whistleblowers and journalists with the certain aim of ensuring that whistleblower concerns are brought to light without negative repercussions for either party.