



CENTRE FOR MEDIA TRANSITION

Review of Model Defamation Provisions

**Background Paper: Model Defamation Amendment Provisions 2020
(Consultation Draft)**

Submission to Defamation Working Party, Council of Attorneys-General

DATE: 24 January 2020

About the Centre for Media Transition

The Centre for Media Transition is an interdisciplinary research centre established jointly by the Faculty of Law and the Faculty of Arts and Social Sciences at the University of Technology Sydney.

We investigate key areas of media evolution and transition, including: journalism and industry best practice; new business models; and regulatory adaptation. We work with industry, public and private institutions to explore the ongoing movements and pressures wrought by disruption. Emphasising the impact and promise of new technologies, we aim to understand how digital transition can be harnessed to develop local media and to enhance the role of journalism in democratic, civil society.

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Introduction

Thank you for the opportunity to contribute to this review. Our submission covers the following points.

1. Responses to the amendments in the Model Defamation Amendment Provisions 2020
2. Additional comments on digital defamation cases.

We acknowledge the intention on the part of the Council of Attorneys-General (CAG) to consider separately digital platforms; as a result, we do not address this aspect in any detail in this submission. We do wish to note, however, that the role of intermediaries is a key policy issue affecting several aspects of legal liability, including how they are characterised as service providers and the responsibilities that attach to them. New methods of production, distribution and consumption have made journalists confront questions over what constitutes ‘news’ and who is a ‘journalist’; lawyers similarly are rethinking concepts of ‘publication’ and who is a ‘publisher’. The Voller decision¹ crystallises some of these overlapping issues; while in our view the decision does not provide a good resolution to those concerns, it does highlight the difficulties of determining responsibility and technical capacity in an environment that promotes the interaction of professional speech and reader comments. For this reason, we think it is preferable to include consideration of digital platforms in the current defamation reform process, even if that means extending the timeframe for review and implementation.

1. Responses to Model Defamation Amendment Provisions 2020

Recommendation	Amendments	CMT Comment
<u>1.</u> No change to the objects of the Model Defamation Provisions in clause 3.	N/A	In our view, the objects should be reconsidered in the second stage of the review when the role of digital platforms is addressed. The digital environment has changed community expectations about publication and speech. The Background Paper acknowledges legislative protection of free speech is beyond scope in this review; however, the objects of the Act could give greater weight to free speech by promoting reporting in the public interest, rather than ensuring that the law does not place unreasonable limits on it.
<u>2.</u> A) Amend clause 9(2)(b) to clarify that the persons to be counted as ‘employees’ include individuals engaged in the day to day operations of the corporation, and who are subject to its direction and control (for example, contractors and persons supplied by labour hire firms), and B) Require “excluded corporations” to, as part of their claims, show measurable actual financial loss directly attributable to the publication in question.	Reflected in amendments to cls 9(2)(b) and 9(6). Reflected in a new cl 7A(2).	We support these recommendations. The requirement for excluded corporations to show actual financial loss helps to protect against unjustified limitations on free speech.

¹ *Voller v Nationwide News Pty Ltd* [2019] NSWSC 766.

Recommendation	Amendments	CMT Comment
3.		
A) Introduce a single publication rule in similar terms to section 8 of the Defamation Act 2013 (UK), which: <ul style="list-style-type: none"> i. applies to all publications; ii. applies to publications by a single publisher and its related bodies corporate and individual employees/contractors; and iii. provides that, for digital publications, the 'date of first publication' is the date on which the material was first uploaded by the publisher. 	Reflected in cl 1A to Schedule 4.1, which contains amendments proposed to the limitation legislation of each state and territory.	We support this recommendation. Introduction of a single publication rule is an essential element in ensuring that the MDPs are responsive to the contemporary environment for media publication, distribution and consumption.
B) Amend the relevant limitation period to extend the one year limitation period in a manner similar to that of section 32A of the Limitation Act 1980 (UK), with an outer limit of three years	Reflected in cl 1B to Schedule 4.1, which contains amendments proposed to the limitation legislation of each state and territory.	We support this recommendation. Extending the limitation period in appropriate cases while placing an outer limit of three years effectively balances the rights of individuals who have been defamed against the broader public interest in freedom of speech.

4.

Make the following amendments to Part 3 of the Model Defamation Provisions, to clarify and enhance pre-trial procedures.

A) Amend Part 3 to make it mandatory that an aggrieved person issue a concerns notice in writing to a publisher prior to commencing court proceedings.	Reflected in a new cl 12A	<p>We support these recommendations. The benefits in avoiding litigation do not need restating; the requirement for a claims notice suitably recognises that in a digital publication environment action can be taken quickly to help address a plaintiff's concerns, even before a matter has been fully considered.</p> <p>The mechanism that requires the response to the concerns notice to be 'as soon as practicable, and in any event within 28 days' balances the interests of the plaintiff in a timely response against the defendant's need to assess the imputations and consider an appropriate remedy, where applicable.</p> <p>The requirement for the court to take into account the prominence and timeliness of a correction or apology is an appropriate measure to encourage a proportionate response</p>
B) Amend clause 18(1)(a) to provide that, for the purpose of the defence to an action for defamation the relevant period in which an offer must be made by the publisher is the period that is "as soon as reasonably practicable", and in any event within 28 days of receipt of a concerns notice.	Reflected in amendments to cl 18(1)(a).	

Recommendation	Amendments	CMT Comment
C) Introduce a new requirement for an initial offer to make amends to remain open for acceptance for a period of not less than 28 days from the date of offer. Amend clause 18(1)(b) to clarify that an offer to make amends does not need to remain open until the first day of the trial.	Reflected in a new cl 15(1)(b1) and in amendments to cl 18(1)(b).	
D) Introduce a new provision to provide that the limitation period is extended if a concerns notice is issued prior to the expiry of the limitation period, for the duration of the pre-trial process	Reflected in cl 1(2) to Schedule 4.1, which contains amendments proposed to the limitation legislation of each state and territory.	

5.

Amend the Model Defamation Provisions to require that the offer to make amends defence is to be determined by the judge.	Reflected in a new cl 18(3).	We support this recommendation. As the Background Paper notes, it may be difficult for a jury, in deciding whether material is defamatory and whether there is a defence available, to disregard information presented at the offer and amends stage.
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6.

A) Amend Part 3 to provide that the aggrieved person must specify in the concerns notice the location of the publication of the defamatory matter (for example the URL).	Reflected in a new cl 14(2)(a1) and a consequential amendment to cl 14(3).	We support these recommendations.
B) Amend clause 15(1)(d) to require that an offer to make amends include an offer to publish a reasonable correction, clarification or inclusion of additional information.	Reflected in amendments to cl 15(1)(d).	
C) Amend clause 15 to make clear that an offer to make amends does not require an apology.	Reflected in amendments to cl 15(1A).	

7.

No change to clause 21 to the Model Defamation Provisions	N/A	
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8.

The Commonwealth Government should consider legislative amendments relating to jury trials in the Federal Court, to improve national uniformity and consistency in defamation proceedings. This should occur in alignment with the agreed timetable for the reform process.	N/A	We support this recommendation and, specifically, the use of jury trials in the Federal Court.
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Recommendation	Amendments	CMT Comment
<p>9.</p> <p>Amend clause 26 of the Model Defamation Provisions to ensure that it operates as intended, allowing a defendant to 'plead back' imputations raised by the plaintiff.</p>	<p>Reflected in amendments to cl 26.</p>	<p>We support this recommendation.</p>
<p>10.</p> <p>Introduce a new defence for peer-reviewed statements and assessments in a scientific or academic journal, modelled on section 6 of the Defamation Act 2013 (UK).</p>	<p>Reflected in a new cl 30A.</p>	<p>We support this recommendation.</p>
<p>11.</p> <p>A) Amend the Model Defamation Provisions to introduce a new public interest defence modelled on the New Zealand common law defence of responsible communication on a matter of public interest (established in <i>Durie v Gardiner</i> [2018] NZCA 278). The defence is made out if the publication is 1) in the public interest and 2) responsible. The provision should provide a mandatory, non-exhaustive list of considerations that the jury should be required to consider, but which are not all required to be satisfied – as follows:</p> <ul style="list-style-type: none"> • The seriousness of any defamatory imputation carried by the matter published • The extent to which the matter published distinguishes between suspicions, allegations and proven facts • The extent to which the matter published relates to the performance of the public functions or activities of the person • Whether it was in the public interest in the circumstances for the matter to be published expeditiously • The sources of the information in the matter published, including the integrity of the sources, recognising that some may be confidential meaning their identity cannot be revealed • Extent of compliance with any applicable professional codes or standards • Whether the matter published contained the substance of the person's side of the story and, if not, whether a reasonable attempt was made by the defendant to obtain and publish a response from the person 	<p>Reflected in a new cl 29A.</p>	<p>We support these recommendations, including the separation of 'traditional' qualified privilege from 'responsible communication on a matter of public interest'. We agree that a journalism defence which can be more effectively applied by media defendants is better treated as a standalone defence rather than as a sub-species of qualified privilege. We also prefer the approach based on the conduct of the publisher, rather than that which includes consideration of the publisher's beliefs.</p> <p>We support, in principle, the inclusion within the elements of 29A(2) compliance with existing professional media codes or standards, but we note there are some aspects of uncertainty here. We question whether the reference to 'applicable' codes and standards means those which apply to the specific publisher (for example, as a member of the Australian Press Council or as a licensed commercial television broadcasting service) or more broadly. This may be an important consideration as there are different standards that apply to different categories of broadcasters and to print and online media, as well as to individual journalist members of the Media, Entertainment and Arts Alliance. As a result, different standards apply to the same material, according to the platform on which it appears and depending on whether the 'respondent' is the publisher or the journalist.</p> <p>In our research report commissioned by the ACCC for its Digital Platforms Inquiry² we provide examples of these differences and note the need for unified media standards that applied across different platforms. In the defamation context, we consider it reasonable that publishers have the benefit of compliance with industry standards to</p>

² Wilding, D., Fray, P., Molitorisz, S. & McKewon, E. 2018, [The Impact of Digital Platforms on News and Journalistic Content](#) University of Technology Sydney, NSW. See pages 88-97.

Recommendation	Amendments	CMT Comment
<ul style="list-style-type: none"> Any other steps taken to verify the information in the matter published Any other circumstances that the court considers relevant 		<p>which they are committed, either by the application of co-regulatory codes in the Broadcasting Services Act or membership of the Australian Press Council.</p> <p>Encouragement to participate in such standards schemes could also be achieved through recognition of attempts to mediate complaints through an independent body like the APC and the remedies it offers.</p>
B) Retain clause 30 of the Model Defamation Provisions so that it can be relied upon by all individuals and entities, in publishing matters which may not necessarily be in the 'public interest' but remain of interest to the recipients, but make clear that it is not a requirement that all of the factors listed in clause 30(3) have to be met.	Reflected in new cls 30(3A) and (3B).	<p>We support the retention of clause 30 to cover situations such as employment references, with the removal of the elements in 30(3)(a) and (b), which are more appropriately applied in new clause 29A.</p> <p>We agree that the jury should decide whether new defence 29A (as well as the amended defence in cl 30) are made out.</p>
C) Amend clause 30 to reduce the potential for overlap between the new public interest defence and clause 30 by removing paragraphs 30(3)(a) and (b), which relate to issues of public interest and the public functions or activities of the person that the material relates to.	Reflected in amendments to cl 30(3).	
D) For both the new public interest defence and the amended clause 30, provide that the jury is to determine whether the defence has been established.	Reflected in a new cl 29A(4) and cl 30(6).	

12.

Amend clause 31 of the Model Defamation Provisions to clarify that the proper material must be:

- A) Set out in the publication in specific or general terms,
- B) Notorious,
- C) linked in the publication, or
- D) otherwise apparent from the context of the publication.

Reflected in amendments to cl 31(5).

We support these recommendations. We consider that linking to the material is a suitable response to the digital publication environment. However, we are unsure whether it was intended to incorporate protection under the new statutory defence of 'responsible communication' into the elements of 'material' in s 31(5)(b).

13.

No change to clause 31(4)(b) of the Model Defamation Provisions.

N/A

14.

- A) Introduce a serious harm threshold, similar to the test in section 1 (serious harm) of the Defamation Act 2013 (UK), whereby::
 - i) A statement is not defamatory unless its publication has caused or is likely to cause serious harm to reputation

Reflected in a new cl 7A(1).

We support most aspects of these recommendations. Our research on trends in digital defamation supports the review's finding on the rise in 'neighbourly' defamation disputes, but the benefits of a serious harm threshold go further than reducing the volume of such disputes in the

Recommendation	Amendments	CMT Comment
<p>of the plaintiff; and</p> <p>ii) The onus is on the plaintiff to establish serious harm. employees/contractors; and</p>		<p>court system. (In section 2 below we comment on alternative ways of addressing these matters.) The test should also help ameliorate the chilling effect on news media that comes with the threat of legal action by public figures who seek to prevent valid criticism that is in the public interest.</p> <p>An update on our research, with results from 2018 and 2019, is set out in section 2 of this submission.</p> <p>In our view, isolated judicial attempts to manage this trend through the concept of proportionality and case management are insufficient to address the problem, and should – as the consultation notes – remain an element for application as appropriate in each jurisdiction. The ‘triviality’ mechanism is inadequate as a defence and in any event is inappropriately applied at the defence stage rather than as a threshold consideration.</p> <p>We do not support the proposal to leave the scope of ‘serious’ solely for the courts to consider. We think there should be at least some legislative guidance on this point. It may take considerable time to develop a test and – as with previous waves of law reform in this area – the law may develop in unexpected ways. In Australia, unlike other jurisdictions referenced in the Background Paper, there is no bill of rights to frame the law in this country and no legislative protection of media freedoms. Accordingly, it would be preferable for CAG to put the time into developing the criteria at the outset.</p>
B) Abolish the defence of triviality.	Reflected in deletion of cl 33.	We support the abolition of the defence of triviality that would accompany the introduction of a serious harm threshold.
<p>15.</p> <p>The Defamation Working Party will undertake a separate review process to consider potential amendments to the Model Defamation Provisions to address the responsibilities and liability of digital platforms for defamatory content published online. This will include consideration of the issues raised by the Australian Competition and Consumer Commission in the Digital Platforms Inquiry Report published on 26 July 2019. Recommendations will be made to the Council of Attorneys-General following this process.</p>	N/A	<p>As noted in the introduction to this submission, we understand that CAG needs additional time to consider this aspect, but we are concerned about the practicality of a second round of legislative reform. As we note above, the impact of digital platforms should be considered in the context of the policy objectives of defamation legislation; it follows that there could be some changes needed to aspects of publication and liability (for example, responsibility and editorial control in the chain of publication), defences that may apply, and remedies.</p> <p>In our view, it would be preferable to reach a view on the other aspects considered in this review and then move on to the platform aspects prior to implementation.</p>

16.

Amend clause 35 to clarify that the cap:

- A) sets the upper limit on a scale of damages which may be awarded for noneconomic loss in defamation claims; and
- B) is applicable regardless of whether aggravated damages apply. Aggravated damages, if warranted, should be awarded separately to general compensatory damages, rather than as part of an award of compensatory damages.

Reflected in amendments to cl 35(2).

Reflected in amendments to cls 35(2A) and (2B).

We support these recommendations. The reasons for restoring the intended application of the statutory cap have been well publicised.

17.

Amend clause 23 to require that leave of the court is required to bring further proceedings in relation to publication of same or like matter by the same or associated defendants.

Associated defendants are any employees, contractors, or associated entities (as defined in the Corporations Act 2001 (Cth)). Leave must be obtained before commencing further proceedings.

Reflected in amendments to cl 23.

We support this recommendation.

18.

Amend clause 21 to provide that a party's election to trial by jury is irrevocable, consistent with the decision of the NSW Court of Appeal in *Chel v Fairfax Media Publications Pty Ltd (No 2)* [2015] NSWCA 379.

Reflected in amendments to cl 21.

We support this recommendation.

19.

Amend clause 10 to allow a court to determine questions of costs, if it is in the interests of justice to do so, despite the death of a party, in any proceedings commenced before the death of the party.

Reflected in amendments to cl 10.

2. Additional comments on digital defamation cases

In our *Trends in Digital Defamation* report³ we attempted to map, across all Australian jurisdictions over a five year period, defamation cases that had a 'digital' dimension. We then compared our findings to the position ten years earlier in 2007.

The review found that from 2013 to 2017, 51% of defamation matters concerned 'digital' publications, such as emails, text messages, online articles, social media posts and other forms of digital publication. Drawing on earlier figures, the review found that from 2007 to 2017 the percentage of defamation cases based on digital publications increased from 17% to 53%.

The CMT's review identified an ongoing change in the character of defamation actions. One trend is that increasingly people are suing one another on an individual level. The plaintiffs in defamation actions are less likely to be public figures, and the defendants are less likely to be media companies. In the period 2013 to 2017, only about 21% of defamation cases were brought by public figures, and media companies were only defendants in 26% of defamation matters. This demonstrates that the high profile cases concerning celebrities such as Rebel Wilson and Geoffrey Rush are not the 'norm' with regards to defamation cases in Australia, even though these cases can attract the largest damages awards.

The CMT is currently conducting further research to update these findings to include cases from 2018 and 2019. While preliminary results show a continuation in the growth in digital defamation cases and the trend towards neighbourly disputes, there have also been notable high profile cases brought by public figures against media companies, highlighting the difficulties of applying existing defences. We expect to release an updated version of our report in March. In the meantime, below we present tables showing digital defamation matters we identified in the calendar years 2018 and 2019.⁴

Finally, we note that the introduction of a serious harm tests will serve to remove some of these matters from the court system. While this is a desirable outcome, we think consideration should be given to alternative means of addressing social media disputes. Industry-based self-regulation could be used in the first instance to promote the implementation of alternative dispute resolution mechanisms. It is worth considering whether the existing, partly automated, content moderation tools used by social media platforms could present an appropriate, cost-effective and timely dispute resolution tool for some of the matters pursued under defamation law. This would mean that disputes could be addressed in the forum in which they arise. The means already exist within large social media platforms for users to complain about content that breaches the standards or terms of use set by the platform. It may be possible to adapt those systems to provide a forum for disputes to be addressed, which provides the 'defendant' with an opportunity to withdraw their comment or clarify or correct it, or to apologise to the complainant. The CMT is currently exploring options for research on this topic.

³ Centre for Media Transition 2018, [Trends in Digital Defamation: Defendants, Plaintiffs, Platforms](#), University of Technology Sydney, NSW.

⁴ The data in these tables has not been finalised; they are provided as a guide only. Final versions, along with an explanation of the methodology, will appear in the updated report to be published in March 2020.

2018 Digital Defamation Cases

Case	First substantive decision	Type of Publication	Type of Defendant	Type of Plaintiff
Gayle v Fairfax Media Publications	[2018] NSWSC 1838	Articles posted on media organisation's websites	Media organisation	Individual
Benhayon v Rockett	[2019] NSWSC 169	Publication of a weblog, two related comments on the blog and a tweet	Individual	Individual
Bolton v Stoltenberg	[2018] NSWSC 1518	Facebook posts	Individuals	Individual
Kostov v Nationwide News Pty Ltd	[2018] NSWSC 858	Article posted online	Media organisation	Individual
Tabbaa v Nine Network Pty Ltd	[2018] NSWSC 468	Online publication of news broadcast	Media organisation	Individual
Mallegowda v Sood (No. 6)	[2018] NSWDC 281	Email	Individual	Individual
Pedro Alfaro trading as Palfaro Cleaning Services ABN: 57 267 431 409 v Taylor	[2018] NSWDC 134	Online publication in the comments section following an article in the <i>Guardian</i> posted on its Facebook page	Social media company, news media organisation and individual editor of news media organisation	Cleaning business
Kostov v Gibson	[2018] NSWSC 428	Online publication of judgments	Individual Judge and the State of NSW	Individual
Munsie v Dowling	[2018] NSWSC 709	Internet publications (articles and videos), hyperlinks to videos, social media posts	Individual	Individuals
Vass v Nationwide News Pty Ltd	[2018] NSWSC 639	Article published on media organisation's websites	News media organisation	Individual

Moroney v Zegers	[2018] VSC 446	Emails	Individual	Individuals
Cables v Winchester	[2018] VSC 392	Facebook posts	Individual	Individual
Fraser v Business News Group Pty Ltd	[2018] VSC 196	Online publication of media articles	Company	Individual
Charan v Nationwide News Pty Ltd	[2018] VSC 3	Article published on media organisation's website	News media organisation	Individual
Burke v Shiells & Anor	[2018] VCC 1095	Emails which were published as letters to the editor	Individuals	Individual
Mirabella v Price & Anor	[2018] VCC 650	Article which was republished online	Media organisation that published original article and journalist	Individual
Yuanjun Holdings Pty Ltd and Ors v Min Luo (Civil)	[2018] VMC 7	Google reviews	Individual	Dental Company and Individual dentist
Johnston v Aldridge	[2018] SADC 68	Facebook posts and comments	Individual	Individual
Bottrill v Bailey	[2018] ACAT 45	Youtube video and a hyperlink with additional text posted on social media	Individual	Individual
Scott v Baring	[2018] WASC 361	Social media post, comments/likes on social media post, website post	Company and sole director of company	Individual
Culleton v Kershaw	[2016] WASC 334	Facebook post and comments	Individual	Individuals
Smith v Stevens	[2018] WASC 95	Document attached to email	Individual	Individual
Knell v Harris	[2018] WADC 177	Email	Individuals and company	Company and individual
Jones v Aussie Networks Pty Ltd	[2018] QSC 219	Online forum post	Company that owns website and individual who posted the comment	Company and sole director of the company

Wagner & Ors v Harbour Radio Pty Ltd & Ors	[2018] QSC 201	Radio broadcast posted online	On-air Individuals, companies (broadcaster and licensee)	Individuals
Clarke v Larard	[2018] QDC 247	Email	Individual	Individual
DG Certifiers Pty Ltd v Hawksworth	[2018] QDC 164	Online reviews	Individual	Company and individual director of the company
Cain v Seven Network (Operations) Limited	[2018] QDC 2	Online publication of news broadcast	News media organisation	Individual
Nyoni v Pharmacy Board of Australia (No 6)	[2018] FCA 526	Condition imposed on the applicant's registration as a pharmacist by the Pharmacy Board of Australia and published by the Board and the Australian Health Practitioner Regulation Agency website	Professional Board	Individual
Triguboff v Fairfax Media Publications Pty Ltd	[2018] FCA 845	Article on media website	News media organisation	Individual
Sarina v Fairfax Media Publications Pty Ltd	[2018] FCA 521	Article on media website	News media organisation	Individual
Clarke v South East Sydney Local Health District South East Sydney Local Health District	[2018] NSWSC 66	Email	Local Health District and individual	Individual
Hamilton v Iles	[2018] WADC 90	Email	Individuals	Individual
Willi & Anor v Banks and Ors; Willi & Anor v Brodsky & Anor	[2018] QSC 284	Text message (among many complaints)	Individuals (in regards to the text message)	Individuals
Feldman v Polaris Media Pty Ltd as Trustee of The Polaris Media Trust trading as the Australian Jewish News (No 2)	[2018] NSWSC 1035	Online article	Media organisation and writer	Individual

2019 Digital Defamation Cases

Case	First substantive decision	Type of Publication	Type of Defendant	Type of Plaintiff
Ashworth aka Otto v Nine Network Australia Pty Ltd (ACN 008 685 407); Otto (aka Ashworth) v Gold Coast Publications Pty Limited; Otto v Dailymail.com Australia Pty Ltd (No 2)	[2019] NSWDC 188	Online versions of news broadcasts and media articles	Media organisations	Individual
Bowden v KSMC Holdings Pty Ltd t/as Hubba Bubba Childcare on Haig and Chapman	[2019] NSWDC 98	Email publication	Individual who sent email and the corporate entity (childcare centre) who individual works	Individual
O'Neill v Fairfax Media Publications Pty Ltd (No 2)	[2019] NSWSC 655	Online versions of news articles	Individual who wrote the articles and news media organisation	Individual
Oskouie v Maddox	[2019] NSWSC 428	Email publications and website publications	Individual	Individual
Raynor v Murray	[2019] NSWDC 189	Email	Individual	Individual
Tavakoli v Imisides	[2019] NSWSC 717	Google review	Individuals	Individual
Doe v Dowling	[2019] NSWSC 1222	Internet articles	Individual	Individuals
Burns v Gaynor (No. 2)	[2019] NSWDC 552	Facebook posts	Individuals	Individual
Park v Kim	[2019] NSWDC 609	Publication in bulletin which has an online presence	Individual	Individual
Eshow v Bishop Mar Meelis Zaia	[2019] VSC 465	Facebook posts	Individual	Individual

Yunghanns v Colquhoun-Denvers	[2019] VSC 433	Emails	Individual	Individual
Young v Racing NSW	[2019] NSWDC 662	Hyperlink and Google search result	A business, a local council and a corporate entity	Individual
Thexton (t/as Thexton Lawyers) (ABN 63 592 181 313) v Nolch	[2019] VCC 975	Posts on a website	Individual	Individual
O'Reilly v Edgar	[2019] QSC 24	Facebook posts	Individual	Individual
Noone v Brown	[2019] QDC 133	Facebook posts	Individual	Individual
Russell v Queensland Television Pty Ltd & Ors	[2019] QDC 60	Online publication of media broadcast segment	Relevant media organisations and Individual reporter	Individual
Ogbonna v CTI Logistics Ltd	[2019] WADC 111	Email	Individual who prepared and forwarded the email and the company that employed the individual	Individual
Dent v Burke	[2019] ACTSC 166	Online publications of media interview	Individual	Individual
Szymczak v Baliyepalli (No 2)	[2019] FCA 1093	Email publication	Individual	Individual
Rush v Nationwide News Pty Ltd (No 7)	[2019] FCA 496	Online versions of media articles	Media organisation and Individual writer	Individual
Chau v Fairfax Media Publications Pty Ltd	[2019] FCA 185	Online versions of media articles	Media organisation and Individual writer	Individual
Oliver v Nine Network Australia Pty Ltd	[2019] FCA 583	Online publication of media segment	Media organisations	Individual
GP v Mackenzie & Ors	[2019] ACAT 32	email	Individuals	Individual
Wagner & Ors v Nine Network Australia	[2019] QSC 284	Current affairs broadcast which was made available online	News media organisations and individual journalist	Individuals

Quinlivan v Konowalous & Ors	[2019] QSC 285	Email	Individual director of business, business entity and individuals who work at the business	Individual
Hanson-Young v Leyonhjelm	[2019] FCA 1981	Blog post which was republished on two different Facebook pages, Sky News media segment which was available on the official media website as well as on the defendant's YouTube channel and the ABC media segment which was made available on official media website, Facebook page and Twitter account	Individual	Individual
Gair v Greenwood	[2019] NSWDC 725	YouTube video	Individual	Individuals
Tsamis v Victoria (No 7)	[2019] VSC 826	Comments made by a State Police Officer to a journalist that were published in an online article	State of Victoria	Individual
Meyer v Solomon	[2019] WASC 458	Email	Individual	Individual
Jensen v Nationwide News & Anor	[2019] WASC 451	Online version of media articles. Hyperlink to articles were posted on twitter some with further comment/s. There were also retweets of articles	Media organisation	Journalist who also posted tweets