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# LAW COMMISSION

## TE AKA MATUA O TE TURE

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26 March 2013

Hon Sir Grant Hammond KNZM  
President  
Law Commission

## LAW COMMISSION RECOMMENDS CONVERGED STANDARDS BODY FOR NEWS MEDIA

The Law Commission is recommending a single new body be set up to provide New Zealanders with a consistent set of news media standards and a one-stop-shop for adjudicating complaints across all news producers.

The new body, provisionally called the **News Media Standards Authority**, would be independent of Government and would not be established by legislation.

It would replace the Press Council, the Broadcasting Standards Authority and the recently formed Online Media Standards Authority with respect to the adjudication of complaints about standards breaches in news and current affairs.

The Commission is recommending that membership of the converged standards body be entirely voluntary and that it be open to both traditional and new media, including web-based publishers such as current affairs bloggers – provided they are willing to be accountable to the new standards body.

The recommendation is contained in the Law Commission's latest Report, *The News Media Meets 'New Media': Rights, Responsibilities and Regulation in the Digital Age* (NZLC R128, 2013) which was tabled in the House of Representatives today.

Law Commission President Sir Grant Hammond said it is important to understand that unlike Britain's Leveson Inquiry, the Commission's review was not driven by a crisis in confidence in the mainstream media.

Instead it was prompted by concern about the gaps and disparities in the legal and ethical standards and accountabilities that apply to news and current affairs as a result of the emergence of new web-based publishers and the convergence of mainstream print and broadcast media online.

"Independent research commissioned for our review suggests New Zealanders place great importance on news media standards, including the need for accuracy and fairness."

"They want to see these universal standards applied consistently, irrespective of whether they are reading news and current affairs online, watching linear broadcast news, or accessing stories and audio-visual content on-demand or via an app."

“Currently this is not the case.”

“At the moment New Zealanders wishing to complain about unethical, damaging, or inaccurate news content confront a confusing mix of standards and complaints processes – or none at all – depending on whether the content has been created by a broadcaster, a newspaper company or an online publisher.”

“In our view the current system of format-based complaints bodies adjudicating against different standards is inequitable for news producers, confusing for the public, and inconsistent with the realities of technological and content convergence. A new level playing field is required.”

The Commission had consulted closely with both mainstream and new media representatives throughout the course of the review and acknowledged the initiatives which had been taken to address some of the problems identified in the Commission’s 2011 Issues Paper.

However in the Commission’s view the paradigm shift brought about by the internet and media convergence demands a new approach.

Sir Grant said it is significant that many of New Zealand’s leading news producers, including Television New Zealand, Radio New Zealand and the Newspaper Publishers’ Association support the concept of a converged standards body.

The following advantages would be available to those entities willing to join the new body:

- **Legal exemptions and privileges:** only news producers who belong to the standards body would be eligible for the legal privileges and exemptions currently available to the news media.<sup>1</sup>
- **Brand advantage:** membership of the standards body would provide a form of quality assurance and reputational advantage.
- **Complaints resolution and mediation:** the standards body would provide members with a quick and effective mechanism for dealing with complaints which might otherwise end up in costly court action. This could be of particular benefit in defamation and privacy cases.
- **Public funding:** only entities who belong to the standards body would be eligible for funding support from New Zealand on Air for the production of news and current affairs and other factual programming.

The Commission is recommending that the Chief Ombudsman, as a figure independent of both the government and the media, appoint an experienced facilitator, such as a retired judge, to oversee the setting up of the new body.

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<sup>1</sup> Parliament has already adopted such an approach in defining who is eligible to access the reporting privileges set out in the Criminal Procedure Act 2011. The Commission recommends this approach be extended to all statutes conferring media privileges and exemptions – e.g. the Privacy Act 1993, the Electoral Act 1993, the Human Rights Act 1993, the Fair and Trading Act 1986.

It proposes this person would consult closely with news producers and with the existing media complaints bodies with a view to drawing on the best features of these bodies.

It is also recommended that the Chief Ombudsman would arrange a review of the new complaints body against the criteria contained in the Law Commission's Report after a year to assess its effectiveness.

The Commission is not proposing any statutory underpinning of the new body but two specific statutory amendments would be required once the new body was established:

- amend the Broadcasting Act 1989 to restrict the news jurisdiction of the Broadcasting Standards Authority that will be assumed by the new complaints body;
- amend the existing statutes which confer privileges and exemptions specifically on the new media so that they apply to those individuals and entities which belong to the new standards body.<sup>2</sup>

The Commission's recommendations for changes to the complaints procedures for news media are complemented by an earlier set of recommendations relating more generally to the laws and standards which apply to all citizens exercising the right to freedom of expression in the digital environment.<sup>3</sup>

Alongside its recommendations with respect to the application of standards to news and current affairs, the Commission is recommending a separate first principles review of entertainment content be undertaken as soon as feasible to address the issues of convergence, with a view to achieving platform-neutral regulation that provides the public with clear choice as to content.

The full report, including a summary and recommendations, can be found on the Commission's website at <http://www.lawcom.govt.nz/project/review-regulatory-gaps-and-new-media/report>.

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<sup>3</sup> This earlier paper, published in August 2012, took the form of a Ministerial Briefing and is reproduced in full as an Appendix to the Final Report.