

# Communication LAW

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NSW Attorney-General John Dowd



## Criminal defamation and the road to uniformity

**The NSW Attorney-General John Dowd believes there should be a break on individuals  
bringing defamation actions for personal reasons.**

**M**r Dowd was giving his views about criminal defamation in a lunchtime address to members of CAMLA at the Hilton Hotel on Friday August 19.

Mr Dowd posed the question, "... if it is acknowledged that the practices which presently constitute criminal defamation are undesirable ... how can they be stopped?"

Mr Dowd said he agreed with Mr Justice Hunt of the Supreme Court and the NSW Director of Public Prosecutions who have suggested that there should be some discretion in deciding whether or not a prosecution for criminal defamation should go ahead.

*"There should be some controlling factor to prevent the launching of such actions by individuals for personal reasons, without any consideration as to the interests of the community as a whole."*

The NSW government has been guided by the views of the experts said Mr Dowd, and it has decided to include the recommended discretion in criminal defamation actions.

This discretion to prosecute or not, will be exercised by the Director of Public Prosecutions. In Mr Dowd's view, this will ensure that political considerations will not have any bearing on the exercise of the discretion. The change would not affect the individual's right to sue for civil defamation.

Mr Dowd said his government was also looking at reducing the limitation period under which defamation proceedings must be commenced.

*"Where a person's reputation has been impugned, there is no logic in having a six year limitation period", Mr Dowd said. "In most, and probably all cases, the maligned person*

*will wish to clear his or her reputation at the earliest possible opportunity.*

*"The Government has been considering reducing the six year limitation period to six months for defamation proceedings.*

*"It should be noted that the proceedings would merely need to be commenced within the six month period. Any delays after that time, for example by lawyers or courts, would not bar the*

*person's right to bring action", Mr Dowd said.*

In his speech to CAMLA members the Attorney-General invited suggestions from anyone who might help smooth the way towards a uniform defamation law.

One of his own suggestions was a co-operative scheme similar to the companies and securities arrangements shared by the states.

## Violence on television

**The latest government inquiry into television violence  
is using the BBC as a role model. How relevant is the  
experience of Britain's "Aunty" to the  
Australian television scene?**

**T**he BBC's guidelines on television violence are the starting point for the inquiry into violence on television, initiated by the Minister for Transport and Communications, Senator Gareth Evans.

The inquiry is being conducted by the Australian Broadcasting Tribunal and is likely to produce the strongest guidelines so far to control the portrayal of violence on commercial television.

The Tribunal has no power to inquire directly into the operations of the ABC and SBS although both broadcasters have been invited to participate in the inquiry.

The 28-page booklet, "Violence on Television - Guidelines for Production Staff" was published last year by thirteen heads of

departments in BBC Television. Copies of the guidelines have been circulated to interested organisations and individuals throughout Australia as the basis for debate on the issue.

According to the Minister, "Possible outcomes of this inquiry could be a new set of relevant rules or guidelines, either in the form of an approved self-regulatory code or appropriate Tribunal standards".

The BBC guidelines are directed at the Corporation's production staff. They refer to news, current affairs, drama, children's television, natural history and promotional clips. There is no attempt to lay down a set of rules for programme-makers. In fact, the

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