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ATTORNEY-GENERAL  
LEADER OF THE GOVERNMENT IN THE SENATE**

**MEDIA RELEASE**

**PARLIAMENTARY INQUIRY INTO FREEDOM OF SPEECH**

I have today asked the Parliamentary Joint Committee on Human Rights to inquire and report on two issues relating to freedom of speech in Australia. The first is whether the operation of Part IIA of the *Racial Discrimination Act 1975* (Cth) (including ss. 18C and 18D) impose unreasonable restrictions on freedom of speech. The second, related, matter, is whether the complaints-handling procedures of the Australian Human Rights Commission should be reformed. The reference has been made under s. 7(c) of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

Among other things, the Committee will examine whether the existing processes of the Commission are sufficient to ensure that trivial or vexatious complaints to the Commission, and complaints which have no reasonable prospects of success, are identified and dismissed at an early stage. It will also examine ways to ensure that complaints are dealt with in an open and transparent way, without unreasonable delay, and in a manner which ensures those subject to complaints are afforded natural justice.

The review of provisions of Part IIA of the *Racial Discrimination Act* was recommended by the Australian Law Reform Commission in its Report on Traditional Rights and Freedoms – Encroachments by Commonwealth Laws, released earlier this year. The review of the Commission’s complaints-handling procedure was invited by the Commission itself.

It is important that Australia strikes the right balance between laws which protect social harmony and mutual respect, and the fundamental democratic value of freedom of speech. The purpose of the inquiry is to ensure that we have that balance right. Equally, it is important that the machinery for human rights protection in Australia operates in such a way as to ensure procedural fairness, and that it cannot be used as a vehicle for vexatious complaints.

I encourage all interested groups to put their views before the inquiry in a constructive and mutually respectful discussion.

I have asked the Committee to report by February 28 2017.

The Terms of Reference are attached.

8 November 2016

## TERMS OF REFERENCE

### PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

To inquire, and report to the Parliament by 28 February 2017, on the following matters:

1. Whether the operation of Part IIA of the *Racial Discrimination Act 1975* (Cth) imposes unreasonable restrictions upon freedom of speech, and in particular whether, and if so how, ss. 18C and 18D should be reformed.
2. Whether the handling of complaints made to the Australian Human Rights Commission (“the Commission”) under the *Australian Human Rights Commission Act 1986* (Cth) should be reformed, in particular, in relation to:
  - a. the appropriate treatment of:
    - i. trivial or vexatious complaints; and
    - ii. complaints which have no reasonable prospect of ultimate success;
  - b. ensuring that persons who are the subject of such complaints are afforded natural justice;
  - c. ensuring that such complaints are dealt with in an open and transparent manner;
  - d. ensuring that such complaints are dealt with without unreasonable delay;
  - e. ensuring that such complaints are dealt with fairly and without unreasonable cost being incurred either by the Commission or by persons who are the subject of such complaints;
  - f. the relationship between the Commission’s complaint handling processes and applications to the Court arising from the same facts.
3. Whether the practice of soliciting complaints to the Commission (whether by officers of the Commission or by third parties) has had an adverse impact upon freedom of speech or constituted an abuse of the powers and functions of the Commission, and whether any such practice should be prohibited or limited.
4. Whether the operation of the Commission should be otherwise reformed in order better to protect freedom of speech and, if so, what those reforms should be.

The Committee is asked, in particular, to consider the recommendations of the Australian Law Reform Commission in its *Final Report on Traditional Rights and Freedoms – Encroachments by Commonwealth Laws* [ALRC Report 129 – December 2015], in particular Chapter 4 – “Freedom of Speech”.

In this reference, “freedom of speech” includes, but is not limited to, freedom of public discussion, freedom of conscience, academic freedom, artistic freedom, freedom of religious worship and freedom of the press.