**Complaint by Ms Dinnison against *The Australian* and Mr Leak**

**Chronology**

# Key points:

* The Commission’s inquiry lasted for 39 days, from the notification to the lawyers for *The Australian* and Mr Leak until the compliant was withdrawn
* Of the total period, 24 days (60% of the time) was spent waiting on responses from the lawyers for *The Australian* and Mr Leak
* Of the total period, 11 days (28% of the time) was spent responding to an allegation of apprehended bias raised by the lawyers for *The Australian* and Mr Leak
* During the course of the inquiry, the Commission received two letters from the lawyers for *The Australian* and Mr Leak
* During the course of the inquiry, *The Australian* and the *Weekend Australian* published at least 55 articles and editorials dealing with or referring to the complaint
* Despite requests from the Commission, the lawyers for *The Australian* and Mr Leak did not provide a submission about why the exemption in section 18D of the RDA applied to Mr Leak’s cartoon.

# Chronology

| **Date** | **Event** |
| --- | --- |
| 4 October 2016 | The Commission writes to Macpherson Kelley, lawyers for Nationwide News Pty Ltd, the publishers of *The Australian*, advising them that it had received a complaint from Ms Dinnison about the publication of a cartoon by Mr Leak in *The Australian*.  As reported in *The Australian* on 15 October 2016, the Commission’s letter advised that ‘sections 18C, 18D and 18E of the Racial Discrimination Act appear to be relevant to the complaint’ and asked for a response by 28 October 2016. |
| 21 October 2016 | The Commission receives a letter from the lawyers for *The Australian* and Mr Leak saying that:   * their clients ‘require that the AHRC take no further part in any inquiry into, or any attempt to conciliate, Miss Dinnison’s complaint’ * the basis for this ‘requirement’ was that a ‘reasonable apprehension of bias’ exists * until this issue is resolved ‘our clients have nothing further to say’.   In a schedule to the letter, the lawyers said that once the ‘apprehended bias’ issue was resolved, it wanted a public hearing in relation to the complaints by Ms Dinnison.  A full copy of this letter was published in the online version of *The Australian* on 21 October 2016. |
| 1 November 2016 | Professor Triggs writes to the lawyers for *The Australian* and Mr Leak enclosing a decision rejecting the allegation of apprehended bias, as reported in *The Australian* on 4 November 2016. |
| 1 November 2016 | The Commission writes to the lawyers for *The Australian* and Mr Leak confirming that it will continue to inquire into the complaint.  As reported in *The Australian* on 4 November 2016, the Commission again asked for submissions from Mr Leak covering the following issues which Macpherson Kelley had previously said that their clients ‘anticipate’ that Mr Leak would give at a ‘hearing’:   * that he was not motivated by race, colour or national or ethnic origin * the cartoon was created ‘in good faith’ and ‘for a genuine purpose in the public interest’ in accordance with section 18D(b) * the cartoon constituted a ‘fair comment on any event or matter of public interest’ which comprised ‘an expression of genuine belief held by the person making the comment’ within the meaning of section 18D(c)(ii) * that his views regarding these issues are both ‘genuine’ and held ‘in good faith’.   The Commission asks for a response by 15 November 2016. |
| 5 November 2016 | The *Weekend Australian* publishes an Editorial in which it says:  This newspaper is deeply attracted to the position articulated by Canadian/ American commentator Mark Steyn who fell foul of similar laws in Canada.  As Steyn has written in our pages, it can be a mistake to defend the content of any offending piece. … To explain Leak’s cartoon is to cede the AHRC’s right to arbitrate discourse to censor debate. |
| 8 November 2016 | The Commission receives a letter from the lawyers for *The Australian* and Mr Leak.  It does not contain any submission in relation to section 18D. |
| 11 November 2016 | Ms Dinnison advises the Commission that she does not wish to continue with her complaint.  The Commission advises the lawyers for *The Australian* and Mr Leak and closes its file, as reported in the *Weekend Australian* on 12 November 2016. |

# Articles published by *The Australian* and the *Weekend Australian*

The following articles were published by *The Australian* and the *Weekend Australian* during the 39 days in which the Commission’s inquiry took place.

| **No** | **Date** | **Author** | **Title** |
| --- | --- | --- | --- |
|  | 15 October 2016 | Hedley Thomas | Cartoon reviewed for ‘racial hatred’ |
|  | 17 October 2016 | Hedley Thomas and Mark Schliebs | Use of 18C is out of hand: Abbott |
|  | 17 October 2016 | Jennifer Oriel | Bill Leak in frontline of battle with champions of bigot rights |
|  | 18 October 2016 | Editorial | A stultifying descent into uncontested mediocrity |
|  | 18 October 2016 | Andrew Burrell | MP rallies media in support of Leak |
|  | 19 October 2016 | Sharri Markson | Censorship: editor, cartoonists attack Leak investigation |
|  | 19 October 2016 | Mark Steyn | The war on free speech |
|  | 19 October 2016 | Janet Albrechtsen | Beheading threats are fine, but don’t hurt any feelings |
|  | 20 October 2016 | James Allan | Does anyone have the courage to stand up and say ‘Je suis Bill Leak’? |
|  | 21 October 2016 | Victoria Laurie | Bill Leak 18C cartoon accurate, says WA Police Commissioner |
|  | 21 October 2016 | Chris Kenny | Taxpayers should not fund this compassionista |
|  | 22 October 2016 | Hedley Thomas | HRC accused of bias in 18C cartoon complaint |
|  | 22 October 2016 | Gerard Henderson | Free speech attacks will continue if legislation allows it |
|  | 22 October 2016 | Editorial | Taxpayer-funded activism undermining the nation |
|  | 22 October 2016 | Chris Merritt | ‘You have to keep fighting these cases’ |
|  | 24 October 2016 | Chris Mitchell | Twigging to questionable HRC |
|  | 24 October 2016 | Darren Davidson | Probe into Leak cartoon the biggest threat to press freedom |
|  | 24 October 2016 | Opinion | Suppressing free speech the most offensive thing about 18C |
|  | 24 October 2016 | John Spooner | Why should a satirist be forced to explain himself? |
|  | 25 October 2016 | Jared Owens | Inquiry would widen 18C debate: senator Dean Smith |
|  | 25 October 2016 | Ramesh Thakur | This should be the end of the road for Gillian Triggs |
|  | 26 October 2016 | Paul Kelly | PM can combine 18C revision with new race hate law |
|  | 26 October 2016 | Mark Coultan | States could bolster hate laws if Canberra repeals |
|  | 26 October 2016 | Editorial | 18C and the commission of silence |
|  | 26 October 2016 | Phillip Hudson and Sarah Martin | Majority opposes 18C case against students |
|  | 28 October 2016 | Dennis Shanahan | 18C ‘offensive to indigenous women’ |
|  | 29 October 2016 | Jared Owens and Chris Merritt | Abbott, PM unite on 18C Leak case |
|  | 29 October 2016 | Editorial | Free speech is a human right |
|  | 30 October 2016 | Joe Kelly | Warren Mundine: 18C puts freedom of speech at risk |
|  | 31 October 2016 | Joe Kelly | Need to act on 18C now, says Mundine |
|  | 2 November 2016 | Kerryn Pholi | I’m offended by Human Rights Commission, not Bill Leak |
|  | 2 November 2016 | Simone Fox Koob | Grant defends Leak’s right to raise issues |
|  | 2 November 2016 | David Crowe | Liberals in ‘free speech’ push on 18C |
|  | 2 November 2016 | Editorial | There is never a bad time to defend free expression |
|  | 3 November 2016 | Dennis Shanahan and Joe Kelly | Howard slams 18C cartoon inquiry |
|  | 3 November 2016 | Michael Sexton | Section 18C as it now stands is here to stay despite its obvious faults |
|  | 4 November 2016 | Hedley Thomas | Triggs rejects 18C ‘bias’ claims |
|  | 5 November 2016 | Paige Taylor and Hedley Thomas | ‘White lawyers’ behind complaint |
|  | 5 November 2016 | Andrew Burrell and Victoria Laurie | I am terrified to return, says racism complainant |
|  | 5 November 2016 | Editorial | Leak action smothers free speech and hides the truth |
|  | 5 November 2016 | John Carroll | Anguish is exquisite for wielders of 18C |
|  | 7 November 2016 | David Crowe and Rachel Baxendale | Ministers push PM for 18C action |
|  | 7 November 2016 | Chris Merritt | Division in left-wing ranks over section 18C |
|  | 7 November 2016 | Angela Shanahan | Bill Leak has offended me, but I’m not complaining |
|  | 8 November 2016 | Chris Merritt | Reform not just a matter of fiddling with words |
|  | 9 November 2016 | Tim Wilson | Greens thought 18C bad law |
|  | 9 November 2016 | Janet Albrechtsen | PM must be firm on freedom |
|  | 9 November 2016 | Rosie Lewis | Leak issue must be resolved ‘quickly’ |
|  | 10 November 2016 | Joe Kelly | Most support free-speech overhaul |
|  | 10 November 2016 | Rosie Lewis | ‘No consequences’: Albanese discounts Leak investigation |
|  | 11 November 2016 | Kylar Loussikian | Ethnic communities give race act compromise the thumbs-up |
|  | 11 November 2016 | Justin Quill | Reform act, ditch AHRC to ensure that debate can be free and frank |
|  | 11 November 2016 | Simon Breheny | No room for horse-trading on freedom of speech: repeal is the only solution |
|  | 11 November 2016 | Rosie Lewis and Greg Brown | Dutton ups the pressure on Triggs to fall on sword |
|  | 11 November 2016 | Editorial | The 18C culture of complaint |