

## CONCLUSION

Defamation laws around the world balance the competing rights of freedom of information and protection of reputation. Different cultures will continue to have different values and priorities regarding this balance. Consequently, it is to some extent futile to attempt to impose one culture's values on another. The decision in *Dow Jones v Gutnick* is an illustration of this. No one approach to law is ultimately correct. While this decision brings into sharp focus the questionable practice of courts exercising a long-arm jurisdiction, it also highlights that an international agreement regarding jurisdiction and applicable law will at least give publishers, content providers and Internet users some certainty regarding the various laws that they will be answerable to.

1. Ibid. at paragraph 71. the US-based publisher of *Barron's Online* and *Barron's* magazine
2. Ibid. at paragraphs 45-48.

3. Ibid. at paragraphs 100-103.
4. Ibid. per Kirby J at paragraph 101.
5. Ibid. per Kirby J. at paragraph 145.
6. [2000] HCA 36.
7. Ibid. per Gleeson CJ. Gaudron, McHugh, Gummow and Hayne JJ at paragraph 35.
8. [1971] AC 458.
9. Ibid. per Lord Pearson at 468.
10. *Dow Jones & Company Inc. v Gutnick* [2002] HCA 56 per Gleeson CJ, Gaudron, McHugh, Gummow and Hayne JJ at paragraph 44.
11. Ibid.
12. Cheshire and North, *Private International Law*, 11th ed. (1987) at 450, cited by Kirby J. at paragraph 145.
13. *Distillers Co. (Biochemicals) Ltd v Thompson* [1971] AC 458.
14. Ibid para 43.
15. (1870) LR 5 CP 542.
16. *The Albatroth* [1984] 2 Lloyd's Rep. 91.
17. (1990) 171 CLR 538.
18. Ibid. per Mason CJ, Deane, Dawson and Gaudron JJ at 569.
19. [2002] HCA 10.
20. [1987] AC 460.
21. [2002] HCA 10
22. Ibid at para 64.
23. Ibid at para 39.
24. Ibid at para 39.
25. Ibid at para 198-199.
26. Ibid at par 35.
27. Ibid at para 36.
28. Part of *Melbourne Authority v Anshun Pty Ltd* (1981) 147 CLR 589
29. Ibid at para 113.
30. Ibid at para 114.
31. Ibid at para 101.
32. Ibid at para 114.
33. Ibid at para 117.
34. Ibid at para 119.
35. Quotation from James Love, director of Ralph Nader's Consumer Project on Technology in Washington DC in Australian Financial Review 5 July 2001 p53.
36. Article 10.1(b).

*The views expressed in this article are those of the authors and not necessarily those of the firm or its clients.*

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# The Andrew Olle Lecture 2002 Delivered by Mr Lachlan Murdoch Sydney, October 18, 2002 Good Business: Great Journalism

**Lachlan Murdoch, in this much discussed lecture, examines a range of issues confronting modern journalism.**

Thank you for inviting me to address Australia's pre-eminent media event generously hosted by the ABC. It is a night that honours our industry at the same time honouring Andrew Olle, a great Australian journalist. I very much thank you for this opportunity.

Although I give the odd speech now and then, I've never actually given a lecture before, so I hope you'll bear with me.

In preparing for speeches I generally try to read over previous speakers' comments, to gain a sense of the type of speech you may be expecting. Reading Kerry Stokes' comments from last year was extremely poignant, as this lecture is once again held under a pall of terrible tragedy. Sadly, Kerry's speech could just as well be given again tonight, as we again find ourselves in all too familiar territory.

## JOURNALISM IN TIMES OF CRISIS

Tonight, as we honour the memory of a great Australian journalist, it is also a timely occasion to mark the work of all our colleagues and friends who have strived under heart-breaking circumstances to inform their fellow Australians and in many instances, the rest of the world. After last week's bombing in Bali, so many of our journalists, photographers and camera crews are again working in extreme conditions and under incredible duress to piece together the harrowing story that unfolded on October 12. We sometimes forget that those we send to report for us from places like Bali feel the trauma and grief like everyone else. We forget that those working behind a camera, a recorder or notebook feel the pulse of humanity as we do.

The best of them feel that pulse more strongly.

It struck me when I heard *The Sydney Morning Herald's* Matthew Moore and *The Daily Telegraph's* Peter Lalor speaking to Sally on ABC radio earlier this week, their voices trembling.

Reporting in *The Tele* on Tuesday Peter went on to write:

*"There are times when a pen and a notebook are inadequate shields against the world.... Tomorrow I promise I will be hard-nosed, today I have to grieve with all these people. My people..."*

Later that day, Peter rang his editor, Campbell Reid, and said he may not be able to report for Wednesday's newspaper. He had joined a search for the missing. Later, he did file his story.



The reports from Bali, the scenes at Australia's airports, the stories of loss, of heartbreak and mateship and valour underscore the depth and quality of the Australian spirit. That spirit unites us. It makes us proud. I hope it makes us strong. We will need all our strength and determination to emerge from this catastrophe a whole nation and do the job at hand. In the weeks ahead we must strengthen our unity and resolve to bring these murderers to justice; and to continue the war against terror.

As an Australian in New York on September 11, I was inspired by how the citizens in that tough and sometimes ruthless city responded to their tragedy. They came together. They shared their shock, their grief and ultimately their resolve to emerge from their ordeal a far stronger community.

I think the media in that city played some part in helping to support and bolster that unity and resilience – or at the very least to reflect it strongly. *The New York Times*, not my favourite newspaper, did an extraordinarily good job producing their series, *A Nation Challenged*. Over a few months the inside back page of that section carried the faces and stories of every single World Trade Centre victim, under the title, "Portraits of Grief". One year on, *The New York Post*, which I publish, decided that it was time to move forward, and focus again on the strengths of the city. We launched the first annual New York Liberty Medals, a successful attempt to honour the greatest acts of citizenship and bravery in New York. We received thousands of entries for the 11 awards, and over several weeks published many of the inspirational stories of ordinary New Yorkers doing extraordinary things.

I have reflected often these past days on how we, the Australian media, will respond to our own tragedy. How will we play our part in serving our own devastated communities? What choices will we make as we step through the various stages of healing our nation? Will we stand with our national leaders, on both sides of parliament, as they seek to bring justice to the cowards that murdered our countrymen and women? Or will we allow ourselves to be misused as a forum for division, effectively undermining community strength and cohesion when our country needs those qualities most? Will we allow ourselves to descend into

a shallow blame game, when we all know that the only people deserving of blame are the perpetrators themselves?

I ponder these questions from the twin perspective of running media properties in both New York and here, and believe that the tragedies of the last 13 months must remind us all of the great responsibility we carry.

I am now spending a fair portion of my time in New York, and when I first moved into my new office at *The New York Post*, I wanted to fill it with reminders of home. Aussie artwork and photos, that sort of thing. But also, I wanted something on my wall that was of particular relevance to that newspaper. I wanted to find some picture out of our archives that represented the paper and had some special meaning to me.

Well, it didn't take long to find, and now, in a position of relative prominence, hangs a black and white photograph of a handsome six year old boy holding a copy of the famous paper and dressed in a ridiculously over-sized newspaper seller's apron. He is standing on the loading dock, amidst the trucks and stacks of papers. This boy was too young to yet understand the business of selling newspapers, but he clearly loved them, even then. He loved them, not for the business but for the craft of journalism that they represented.

The picture was taken 25 years ago and that young boy was me.

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### **BUSINESS, JOURNALISM AND THE ORTHODOXY OF THE MEDIA ELITE**

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Over the last 25 years, I have been privileged to grow up retaining the love of good journalism, the craft, while learning its business: the dollars and cents. I have learnt that they are not mutually exclusive but integrally self-reliant. Each dependent on the other. Good journalism is good business practice; good business supports great journalism.

I know that reality may be anathema to many of you here tonight. But I don't expect I should be here to tell you what you want to hear. Good speeches are those that come from the heart, that ring true. And tonight I want to challenge what I regard as the orthodoxy of the media elite.

The industry is littered with self-styled purists who believe the business of media - the requirement to make a profit - somehow corrupts the craft. The self-anointed media elite among us believe, somewhat self-servingly, that not only the act, or process of making a profit is positively sinister, but also that the very desire to do so is.

Two years ago this forum was told that Australian journalists worked in two distinct camps - "commercial journalism or serious journalism". In that speech we were told, and I quote, :

*"The horse has bolted. The idea that owners of media organisations regard the practise of journalism as a public service is as outdated as the idea that businesses operate in the interests of a better world... If you want to apportion guilt, blame a system that demands growth and profits and lower costs from every public organisation."*

The speaker went on to say that commercial journalism encompassed "popular magazines, tabloid newspapers and news and current affairs on commercial TV and radio", while serious journalism, he told us, was restricted to metropolitan broadsheets and the ABC, because, absurdly, serious journalism was more akin to charity than to business.

Well, this bloke couldn't have been more wrong.

You can see here that the Australian media elite define their club through standards designed only to exclude. Entry requires that you either rely on tax payer's money to draw your paycheque, or that your newspaper folds twice over, and God forbid, don't ever even think about a profit. I noted a letter to *The Australian* this Thursday on this very issue. It quoted the Canadian writer, John Ralston Saul, who said: "*Highly sophisticated elites are the easiest and least original thing a society can produce.*"

I agree. I happen to think that serious journalism is about informing the community, reflecting their interests and championing their causes. The size of a newspaper is simply irrelevant. *The Times* of London may be one of our finest journalistic institutions; but in Australia so too is *The Herald Sun*, a tabloid and a great commercial success. I am equally proud of *The Australian*, *The Daily Telegraph*, *The Courier Mail* and the