

I would like to make a written submission in response to the Review of Model Defamation Provisions. The personal details of the submitter are not to be published. The content of the submission itself can be published.

I have not had the opportunity to read through in detail the whole of the papers however below are some of the issues I see in the current defamation law which should be addressed.

- Google LLC for example relies upon the Hague convention to be made a party to the proceedings. They must be made to have a process under the Australian jurisdiction to be made contactable easily to initiate a complaints process. Either the complaints process be online through a form or email access or Google LLC register as an Australian corporation. This is just an example which should apply to all internet intermediaries seeking the protection of the new proposed defences.

- I also do not see a resolution where the internet intermediary seeks the consent of the originator and the originator does not provide consent for their private information to be released. In such cases the defamatory publication must be immediately removed. However, how does one then go on to discover the originators details without ending up in the Court again where the internet intermediary is overseas based and relies upon the Hague convention to complicate being served.

- There has been a surge in litigation where small businesses including excluded corporations initiate proceedings to defend their reputation. In cases which involve reviews such as on Google map, the internet intermediary must establish a process to verify the originator actually engaged the service provider for service. Proof of engagement should require either provision of an invoice, quote, receipt or some form of correspondence existing between parties to be provided at the time of writing the review or when a complaint is raised by the complainant.

- regarding an issue of jurisdiction it appears the Federal court of Australia may not have jurisdiction over matters not published in NT or ACT. Internet publication should be considered to have been published throughout Australia for it to come under the federal courts jurisdiction.

- excluded corporations should be able to self represent through a representative of the corporation (not needing to be a sole or joint director) without having to engage legal representation. Excluded corporations could even be a single lone director and employee.