

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.