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Privacy and media – a subtle compatibility

Outline

Privacy and media are not as incompatible as commonly suggested.

In principle and in practice, contemporary privacy and contemporary media share certain characteristics. Clearer, more sustained focus on those shared characteristics would ease some of the tension between those whose chief focus is on privacy protection and those whose chief focus is on disclosure through media.

Ease, but not cure, because in particular cases choices must be made between privacy (if it is understood simply as non-disclosure) and media (if it is understood simply as disclosure).

This paper will set out the shared characteristics of contemporary privacy and contemporary media by reference to universally accepted international standards.

The paper will suggest one practical method by which a clearer, more sustained focus could be adopted by practitioners of privacy protection and by journalists.

That method creates a taxonomy of fame in order to guide decision-making in circumstances where privacy and disclosure need to be balanced.

Briefly, the taxonomy is –

Fame by election or appointment to public office

Fame by achievement

Fame by association

Fame by chance

Royal fame.

The paper will explain each category and illustrate the argument by reference to recent leading cases involving privacy and media in the superior courts of several jurisdictions.