



Profile: Lynette Houssarini

**Senior Lawyer Team Leader, Disputes
& Training at the ABC**

CAMLA Young Lawyers representative, Simone Blackadder, caught up with Lynette Houssarini, a senior lawyer working at the Australian Broadcasting Corporation (ABC), to discuss her extensive role with the national broadcaster and the current challenges faced by the media industry.

1. How and where did you start your career?

After finishing my studies at UNSW I started as a Business Affairs Manager at a music publishing company – negotiating music licences and drafting publishing agreements – before joining the Arts Law Centre as a Legal Research Officer. I was then approached by the ABC to see if I was interested in a 3 month contract role to review copyright issues, licensing arrangements and undertake clearance work. I ignored all the unsolicited professional advice I was given not to specialise too early and leapt at the opportunity. Within 18 months, I was working at the ABC's Melbourne television studios, essentially running my own little practice. Amongst other things, I provided pre-publication advice and attended and appeared before court on suppression order applications. It was a huge leap of faith in my ability by the ABC. I was definitely thrown in the deep end but, within a short period of time, I had loads of responsibility. It was a brilliant and happy time for me.

2. How would you summarise the scope of your current role?

My role at the national broadcaster is broad and diverse. I manage the disputes and training team within the legal department. I also write and present the media law training to ABC journalists and program makers across the country – sometimes in person, other times by teleconference or Skype. The media law training delivered by myself and colleagues is customised for different clients within the business, from comedy writers to investigative journalists, and is a very important element of our legal risk management. I also manage the legal internship program that is offered to graduates. Internships

last from 4-6 weeks. We try to provide interns with exposure to all aspects of the business. I often bring them along to media law training or program tapings, and my colleagues will take them to court for the defamation list on Fridays. Much of my practice is in pre-publication where I advise ABC journalists and program makers on issues such as defamation, contempt of court and general newsgathering risks. In addition to general news coverage, I provide pre-publication advice on a range of programs at the ABC, and this year my primary focus is on *Four Corners* and *The Checkout*.

3. What are some of the key legal issues facing the broadcasting / media industry today as you see them?

The volume of content that is delivered to the public now is greater than ever and continues to increase. The extent to which that content is shared online can present a huge challenge to publishers as they manage their legal exposure. For example, ensuring that all traces of articles or statements have been removed online is difficult. News is now a 24 hour cycle that can be republished in moments. Coverage of criminal investigations in the current media landscape can be challenging, because the story can change from hour to hour. We need to be alert to the potential of legal risks, including inadvertently linking to old items and staying on top of any relevant court orders and legislative restrictions.

I am also interested to see how the jurisprudence develops in relation to social media and defamation. I wonder whether the courts will consider posts on social media as seriously as they do newspaper articles and long investigative pieces on programs such as *Four Corners*. Early indications are that they do.

The introduction of data retention laws, requiring telephone companies and internet service providers to collect data from their customers and store it for two years, is a major concern for journalists engaged in investigative work. Not being able to protect their sources could have a disastrous effect on the availability of whistle blowers to provide valuable information that is in the public interest. There have been promising results in some states with regard to the operation of shield laws and protection of journalists' sources, so it could represent a big step backwards. Who knows, journalists may have to go old school and just ditch their mobile phones in favour of pen and pad and a pub rendezvous.

4. As a pre-publication lawyer, what are some of the challenges of legalling comedy?

By its very nature, comedy can be a challenge to legal, because lawyers and comedians are often doing opposing things. Lawyers try to define and nail down the meanings and work out ways in which they can be defended. Comedians play with the meanings of words and phrases.

I've asked writers to explain jokes to me, then methodically worked through a list of defamatory meanings. I appreciate why they're not always receptive to that level of analysis. But their job is to be funny, and mine is to look for the legal risks and address them. Not all comedic meanings are defamatory of course - it may just be silly or irreverent humour - or they're expressions of an honest opinion, and so would be defensible.

In Australia, legal authority that has dealt with comedy and defamation are conflicting, which makes our job when reviewing comedy programs and assessing the legal risks somewhat difficult.

You occasionally encounter contempt issues with comedy. Unfortunately, the sobriety of court reporting rules doesn't lend itself well to humour, and suggesting that a joke is slightly reworded to include the word "allegedly" isn't likely to be popular with a writer.

There can also be other legal risks associated with comedy skits, including covert recording issues, trespass, potential consumer code breaches and sometimes even criminal law.

I tell my colleagues providing pre-publication advice to comedy program makers to remember that it is not a popularity contest. You're never going to be the most fun guy in the room, but at the end of the day your job is advise the ABC on those legal risks in its best interests. Apart from all that though, and this probably

says more about me, I've always loved advising on comedy here at the ABC.

5. A lot of young lawyers would see the ABC in-house role as a dream job. What are the positives and negatives of working for such an organisation?

There are many positives to working at the ABC. First and foremost, the ABC is a respected and loved organisation. The work that ABC program makers do is so often ground breaking and innovative. Shows such as *Four Corners* address immensely important issues in the public interest, so being part of that work is a privilege. You get to work with so many talented and lovely people both on the production and the legal side of the business. There are also the unsuspecting lift rides with cricketing celebrity crushes. The ABC has been a big part of my life for so long and most of what I do now is intuitive.

Only two negatives that come to mind - the afterhours work and interruptions to your personal life while on call can be unrelenting. I might go to bed after having advised on a huge police manhunt, only to be woken at 4 am with news of an arrest and a million questions. It's a challenge to think on your feet within seconds of opening your eyes. Unfortunately, that's the reality of the work: the news cycle never stops and crime doesn't take a holiday! The second negative is that it's sometimes really difficult to watch back some of the brilliant shows I've advised on without a slight fear that I may have missed something. Some in particular can make for uncomfortable viewing. But my family always watches and looks out for the legal credits.

6. When supervising the ABC legal internship program, what are the primary skills you look for in a junior lawyer?

As a starting point, we look at their academic record. It doesn't need to show all high distinctions, but good performance in a range of core subjects is highly valuable. It's important that the potential intern has strong research skills. Investigative skills are also a great asset for lawyers in the litigation team. We like to see a demonstrable interest in the media and broadcasting industry. During the interview, we often ask potential interns whether they read the papers and what ABC programs they watch. A keen interest in politics and sport also holds you in good stead in the media law game! Finally, to work in the ABC legal team it's important for a junior lawyer to have energy, curiosity and a robust sense of humour. The rough and tumble of a day's work isn't for the faint of heart.

7. What are your top tips for young lawyers wanting to work in-house?

I have a number of tips for young lawyers.

Firstly, understand the business and your client. Know the organisation inside and out, its culture, history, and most importantly, its business objectives. Working in-house is so much more enjoyable when the business aligns with your personal values. After a while, you feel part of the bigger organisation, and identify closely with its successes and challenges within the industry. Secondly, know your subject matter. Build your skill set, whether by reading up on case law, attending seminars or sitting in on the defamation list on Fridays. Knowing the law will assist in building your confidence and prepare you for the occasional push-back you might get from your client. You need to be ready and able to hold your ground when your advice is challenged. Thirdly, never lose sight of your role which is to provide legal advice in the best interests of your client, while maintaining your legal and ethical independence as an officer of the court. Finally, be approachable, available and responsive. Always value-add in your ad-

vice; don't just identify a legal problem, suggest alternatives that won't fall foul of legal risks. Speak your client's language and support them in their work. Make the most of your role, and find the joy in what you do.

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