

*Responsible Media: Another Endangered Species*

In the usual course of things, this column would focus on a different titillating legal issue every edition. In light of December's column on suing ENGOs for spreading falsehoods about aquaculture, it would be unusual to carryover a discussion on a similar topic. However, the recent flood of PCB-laced propaganda spewed-forth by ENGOs and the media warrants additional consideration in this edition.

The freedom of speech doctrine is the darling of anti-aquaculturists. This doctrine, that a person cannot be held liable for expressing their opinion on an issue (regardless of how ignorant the opinion is), is nowhere more protected, or protective, than in North America, and particularly the United States. Canada and the U.S. has become havens for organizations that chose to prey on the gullibility of the general public in furthering their agenda to end aquaculture world-wide.

The ability to produce and disseminate information across the world in seconds has made the internet an amazingly effective weapon for these activists. The web has also offered a greater degree of security to the activist that traditional media, such as the newspaper. This is because damages resulting from defamation are often suffered in a different country than where the activist is based and where the defamatory remarks were created. This has made it difficult, if not impossible, for the injured party to sue for damages or to injunct the defaming party unless they happen to be in the same jurisdiction. In most cases, this has stopped meritorious defamation claims dead.

In a recent case from Australia, a businessman sued New York based *Barron's* magazine in the Australian Supreme Court for defamation arising from an article posted the *Barron's* website that alleged the businessman to be unscrupulous and a fraud. *Barron's* argued that Australia was not the proper jurisdiction for the law suit because the article was written and posted in the U.S. To the surprise of many observers, the Australian court decided that the businessman was entitled to sue the American company in Australia for web-based defamation that originated in the U.S., and allowed the action to continue with the American magazine as a defendant.

This Australian decision surprised many observers and has many major corporations, including ENGOs, worried that they may be open to law suits in multiple jurisdictions for material printed on a web-site based in one jurisdiction. I say this is a good thing. Australian and Canadian law, both having their foundations in English common-law, are substantially similar, and the decision in the above case will likely be applied in Canada relatively soon. Advances in the law of this sort are necessary to allow the law to keep pace with the technology that many activists are using to spread misinformation about aquaculture.

The internet aside, it is becoming increasingly obvious that newspapers, sensitive to the potentially diminishing protection of the freedom of speech when publishing their own articles on aquaculture, are choosing to express and support their corporate views vicariously, by printing the letters of readers that are similar to the stance that the paper wishes to take on the issue.

For example, in the days following the publication of a study in the journal *Science* regarding the levels of PCBs in farmed salmon, a prominent Canadian newspaper printed an article on the study. The headline was “Farmed salmon have higher PCB counts”. The public ate it up. Four days later the same paper published a letter from a reader. Beneath the bold heading “Say no thanks to Chemically Enhanced Fish”, the paper printed the following:

*Where the fish live and what they eat concerns me. Cosmetic flesh colouring agents are being fed to the fish. What other chemicals are being introduced into their diets? I don't know. Confined spaces, some with dioxins and other water-suspended pollutants are not a good environment in which to raise salmon. Therefore, I am not interested in eating farm-raised fish. I encourage anyone who might be thinking of eating it, not to.*

Aside from the shocking admission from the reader that they are willing to make decisions on issues of “concern” to them using incomplete information, it is disturbing to think that this person would encourage others to avoid aquaculture products despite this admitted ignorance. This is the power of the media. What is more concerning though is that this newspaper was sent multiple pro-aquaculture letters rebutting their interpretation of the *Science* article, yet the newspaper chose to print only the letter which discouraged people from buying farmed fish.

This example begs the question, at what point does the media become responsible for interpreting and printing the opinions of its readers, especially when the opinions are tailored to portray a message that the newspaper otherwise supports? When does the freedom of speech end and responsible press begin? Perhaps it is time for the industry to ask that a Court to answer this question. The alternative is to allow anti-aquaculturists to remain uninhibited in their current campaign against industry.

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