

## NOTICE OF FILING

### Details of Filing

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File Number:	NSD673/2022
File Title:	LACHLAN KEITH MURDOCH v PRIVATE MEDIA PTY LTD ACN 102 933 362 & ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 59  
Rule 29.02(1)

## AFFIDAVIT OF JOHN MICHAEL CHURCHILL

No. NSD673/2022

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**LACHLAN KEITH MURDOCH**

Applicant

**PRIVATE MEDIA PTY LTD & ORS**

Respondents

Affidavit of: John Michael Churchill  
Address: Level 3, 32 Martin Place, Sydney  
Occupation: Solicitor  
Date: 20 January 2023

### Contents

Document number	Details	Paragraph	Page
1	Exhibit <b>JC-2</b> , being the bundle of documents exhibited to the Affidavit of John Churchill sworn on 10 January 2022	[4]	6-70

I **JOHN MICHAEL CHURCHILL** of Level 3, 32 Martin Place, Sydney, Solicitor say on oath:

1. I am the solicitor on the record for the applicant in these proceedings.

00019034

0018461

0018458

Filed on behalf of (name & role of party)

Applicant

Prepared by (name of person/lawyer)

John Churchill

Tel 02 9216 9816

Fax N/A

Email [jmc@johnchurchill.com.au](mailto:jmc@johnchurchill.com.au)

**Address for service**


Level 3, 32 Martin Place

(include state and postcode)

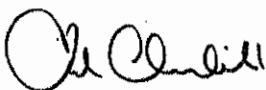
Sydney NSW 2000

[Version 3 form approved 02/05/2019]

2. Nothing that I say in this affidavit is intended to waive legal professional privilege.
3. I refer to and rely on my affidavits filed in these proceedings sworn on 22 September, 6 October 2022, 29 November 2022 and 19 December 2022.
4. Exhibited before me at the time of swearing this affidavit is a paginated electronic bundle of documents marked "**Exhibit JC-2**". I will refer to documents contained in Exhibit JC-2 by page number.
5. On or around 20 January 2023, I accessed the "Lachlan Murdoch Letters" series on Crikey's website and observed that the Republished Article was promoted as the first result in the top-left hand corner.
6. On or around 20 January 2023, I accessed the website <https://www.gofundme.com/en-au> and entered the search terms "Lachlan Murdoch". The respondents' crowdfunding campaign was the first result that appeared. As of the date of this affidavit, the Go Fund Me campaign has raised \$509,699 from roughly 5,800 individual donations.
7. I have been made aware of the following documents by way of discovery that formed part of the so-called "Lachlan Murdoch Campaign" that the respondents, and the parties sought to be joined to these proceedings, engaged in:
  - a) A word document titled "LACHLAN MURDOCH CAMPAIGN" dated on or around 1 August 2022 (**Exhibit JC-2 pp 6-9**);
  - b) An email from Peter Fray to Zoe Samios, attaching a document titled "10. August 1 email from MB" (**Exhibit JC-2 pp 10-12**);
  - c) A briefing paper from the firm Populares titled "Crikey Murdoch Campaign", subtitled "Briefing Paper: Positioning Crikey to Campaign Effectively" created on or around 8 August 2022 (**Exhibit JC-2 pp 13-18**);
  - d) Email chain between Will Hayward, Eric Beecher, Peter Fray, Michael Bradley and Populares from 26 July 2022 to 15 August 2022 (**Exhibit JC-2 pp 19-29**);



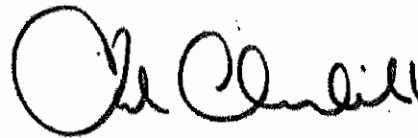
- e) A PowerPoint presentation titled "The Lachlan Murdoch Letters Campaign" created on or around 10 August 2022 (**Exhibit JC-2 pp 30-54**).
  - f) A text message exchange between Beecher and Hayward dated 11 August 2022 (**Exhibit JC-2 p 55**);
  - g) An email from Hayward dated 14 August 2022 at 3:16pm (**Exhibit JC-2 p 56**)
8. On 23 August 2022, Mr Hayward wrote an article titled "A huge bet, for sure, but we believe a free press is worth fighting for" and said that the amount of \$3 million "would be close to all the revenue we received from our subscribers last year".
9. On 24 August 2022, Mr Fray and Mr Beecher wrote an article titled "A statement: 'We stand by our reporting and we welcome Lachlan Murdoch's writ'" (**Exhibit JC-2 pp 57-60**).
10. In tandem with the promotion of the Republished Article, the respondents and prospective respondents ran a "discount" campaign, entitling new subscribers to a 50% discount in the price of a yearly subscription to Crikey by entering the promotional code "LETTERS" (**Exhibit JC-2 pp 61-64**). This enabled new subscribers to sign up for a yearly membership to Crikey for \$99, instead of \$199.
11. Crikey's "Terms of Use" provide that all subscriptions, other than "gift subscriptions", are automatically renewed at the end of each billing period, unless cancelled according to the cancellation policy. The cancellation policy provides that only future charges associated with a user's subscription can be cancelled.
12. It has been reported that Private Media has defamation insurance that would cover its damages and legal costs, but that it has elected to forego relying on this policy because its insurer may have forced it to settle with the applicant (see, for instance, the articles exhibited at **Exhibit JC-2 pp 65-68**). This will be in issue at the trial.
13. The Federal Court publishes its annual performance data. The court sets a goal of disposing of 85% of matters (other than native title) within 18 months of commencement (**Exhibit JC-2 pp 69-70**).





14. On the basis of the above matters, myself and senior counsel formed the view that the nature of the Republished Article takes on a different complexion requiring the amendment of the Statement of Claim. In our view, it arguably amounts to an intentional misuse of legal processes to obtain a collateral benefit outside of those process' scope, and is a matter that will need to be resolved at trial. We do not believe that a new trial date in August 2023 will delay the resolution of this matter to a significant extent, and certainly not outside of the court's typical resolution times.

Sworn by the deponent  
at Sydney  
in New South Wales  
on 20 January 2023  
Before me:



Signature of deponent



Signature of witness

Sam Hagan, lawyer with a current practising certificate

Signed and witnessed via audio-visual link in accordance with section 14G of the *Electronic Transactions Act 2000* (NSW)

5

## **Certificate Identifying Exhibit**

No. NSD 673 of 2022

Federal Court of Australia

District Registry: NSW

Division: General Division

**LACHLAN KEITH MURDOCH**

Applicant

**PRIVATE MEDIA PTY LTD & ORS**

Respondents

This is the Exhibit marked "**JC-2**" now produced and shown to John Michael Churchill at the time of swearing his affidavit on 20 January 2023 before me



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Signature of witness

Sam Hagan, lawyer with a current practising certificate

## LACHLAN MURDOCH CAMPAIGN

### POSSIBLE TACTICS

- Send personal emails/letters to key influencers explaining what's happening (inc politicians)? Sarah Hansen-Young, etc?
- Rudd, Turnbull, former judges and lawyers, Burnside, etc?
- Fairfax family (John B) go public on this?
- US media coverage?
- Video?
- Crowd funding?
- Paid marketing?
- Privately brief social media influencers?
- Small survey showing ordinary Australians the story headline and asking them who they believe "Murdoch" is? (Maybe small sample, 200/300?).

### TALKING POINTS

- "Lachlan Murdoch wants to wipe out Crikey financially. We are one of the very few viable independent news publications in Australia, and he wants to crush us."
- "The Billionaire Boss of one of the biggest most powerful media companies in the world wants to clobber a tiny independent news publisher..."
- "How could Australia's defamation laws allow a wealthy public figure like Lachlan Murdoch to sue over straight-out public interest journalism when, in the US, as a public figure, he couldn't sue at all?"
- "In his 2014 Keith Murdoch Oration, Lachlan Murdoch declared that 'censorship should be resisted in all its insidious forms ... we should be vigilant of the gradual erosion of our freedom to know, to be informed, and make reasoned decisions in our society and in our democracy. we must all take notice and, like Sir Keith, have the courage to act when those freedoms are threatened.' At Crikey, we fully agree with Lachlan's brave comments."
- "The Murdoch media regularly attacks hypocrisy in all its forms, which is why Crikey is taking a stand against the hypocrisy of a billionaire media owner trying to shut us down."

- “We may not be anywhere as rich as Lachlan Murdoch, or as big as his media companies, but Crikey is tremendously proud of its moral compass and its editorial mission. If publishers like us didn’t exist in Australia, the Murdochs would be even more powerful and politically influential.”

## POTENTIAL CONTENT SLATE:

Day 1: Short overview news story (the facts, including previous LM-Crikey skirmishes) ... Chronology: how media power works (quote key parts from BK story + all letters, plus repost the article and post all letters in full on website?) Comment: why we're doing this (EB?) (devote entire newsletter?)

Day 2: Australia's defo laws (v US) (Bradley?) ... Lachlan Murdoch on media freedom/quotes from his speeches ... Crikey's history with LM defo claims

3: the Dominion/Trump connection (Warren?) ... US media and politician comments on Fox News and Jan 6/Trump ...

4: Fox News as a political player over decades (David McKnight?) ... Rudd or Turnbull write?

5: S Mayne (?) ... News Corp's power (EB/regurgitate past series)

6: How LM defends Fox/his public comments ... Murdoch family wealth, ownership structure ...

7: Guest columns x 2 (academics, former politicians, former News Corp employee, etc).

8: Interviews with lawyers, ex-judges, others on defo law reform, using this case as the example

... plus obviously updates on the rolling story ...

Other possible stories:

BK? John B Fairfax story/interview? More on defo laws, history of reform? Fox and January 6? Mike Carlton? Interview other independent publishers about what this means? Paddy Manning (L Murdoch biographer)?

## AUSTRALIA’S DISTORTED DEFAMATION LAWS:

Possible approach and content ... make it a campaign?

**Will's thoughts:** To me the issue has always been that, as currently constructed, one interpretation (Murdoch's) of the law is that we shouldn't even be allowed to publish what we did. That is absurd - even scary. It seems to me there is a wide non partisan public consensus that defamation law needs to be reformed. It touches multiple issues - #metoo, Stokes, concentration of power, Porter (as you know, even he thought the law should be reformed). The way I think we should think about this calculation is - one campaign has us at the centre (Murdoch wants to shut down Crikey!) - how much total positive impact would that have? Everyone it reached would think of us, but maybe total reach would be lower. Vs - a wider campaign that says - enough is enough, defo law has to change. We build a big public consensus. Make it cross party. Set up a go fund me and a petition. Pull in multiple factions. Campaign to change the law. Sell merch. Probably has potential for wider reach, but lower connection to our brands. How does that balance look, and which one supports the sustainability of Crikey over the long term?

#### VIDEO:

- Lachlan Murdoch's comments about media freedom and the role of Fox News as their "opposition" to the Biden administration ... interview grabs with Turnbull, Rudd, Bradley, etc ...

#### BACKGROUND:

A brief history of Lachlan Murdoch and Crikey/P Fray, July 2022.

In my time as EiC of Crikey (from Jan 2020 to now) we have had four run-ins with Lachlan Murdoch. We know about the current one. Here is an outline of the other three:

**September 23 2020.** On this day, in a headline, we referred to Lachlan Murdoch as being cited by ex British MP Tom Watson as organised crime figure. Mr Watson's statement, made in the wake of the UK hacking scandal and under parliamentary privilege, was of course a reference to James Murdoch, Lachlan's brother. Following a letter from Lachlan's lawyer, we issued an apology, under my name, the following day.

<https://www.crikey.com.au/2020/09/24/crikey-apologises-lachlan-murdoch/>

**April 15, 2021.** On this day in an article written by Stephen Mayne, we suggested that Christine Holgate, the recently sacked head of AusPost, had played dead as a board member of the then Lachlan Murdoch-run and controlled Channel 10 board on the issue of AFL football rights. We suggested that Mr Murdoch and his board, including Ms Holgate, had not bid for the rights to assist the Murdoch-family controlled Foxtel in its negotiations. After letters between Minters and Lachlan's lawyer we published an apology to Mr Murdoch on April 21 and agreed to pay costs to the sum of approx. \$14,000. We also apologised to Ms Holgate. The Murdoch apology was kept in a prominence position on the Crikey homepage for several days.

<https://www.crikey.com.au/2021/04/21/apology-to-lachlan-murdoch/>

**August 19, 2021.** we received a concerns notice from Mr Churchill concerning an article by Stephen Mayne about the jobkeeper funding access by Mr Murdoch's Nova radio station on that same day. The article dealt with how many leading companies, such as Harvey Norman, had received many millions from jobkeeper and subsequently made profits. In the article Mr Mayne used the phrase that Mr Murdoch's Nova "helped itself" or "helped himself" (need to check this bit) to \$16 million in funding. Mr Churchill said the story alleged that Mr Murdoch had inappropriately done so, suggesting all sorts of illegal activity. Minter responded that, in essence, there were no such imputations in the article. Mr Churchill did not follow up and the concerns notice lapsed. Concerns notice attached.

**Late June 2022,** in an article by Bernard Keane, Crikey published that Lachlan Murdoch's Fox News had egged on, amplified and encouraged the actions of pro- Trump supporters on Jan 6 2021. Etc.

## John Churchill

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**From:** Peter Fray <peter.fray@me.com>  
**Sent:** Sunday, 21 August 2022 8:32 PM  
**To:** zoe.samios@nine.com.au  
**Cc:** Will Hayward; Eric Beecher  
**Subject:** Re Murdoch, note embargo  
**Attachments:** Crikey\_NYT\_5.7x10.5in\_5.1.pdf; Crikey\_CANBERRA\_TIMES\_fullpage\_374x260mm\_7.pdf; LMurdochChronology.docx; 1. Crikey Article (00017710xECF95).pdf; 6. Letter to Bartlett re Crikey 19.7.22.pdf; 7. Letter to Churchill - Offer to make amends\_2689036\_1.PDF; 8.Letter to Mr Michael Bradley, Marque Lawyers (00017891xECF95).pdf; 9. Letter to Churchill\_2690965\_1.DOCX; 9. Letter to Churchill\_2690965\_1.DOCX; 10. MB August 1 email to us.docx; 11. Letter to Mr Michael Bradley, Marque Lawyers (00017916xECF95).pdf

Hey Zoe

Appreciate this isn't of any use for tomorrow's pages but thought you might be interested.

In the NYT on Monday Crikey has placed an advertisement inviting Lachlan Murdoch to actually follow through with his threat over the Fox article and sue us.

We have also placed a similar ad in The Canberra Times, after being rejected by Nine.

James Chessell told me it was probably knocked back because we were competitors (!/lol); someone in ads at Nine told Will Hayward it was because Nine didn't want to upset Rupert etc.

We strongly think we should be able to publish articles questioning Fox and its role in the Jan 6 insurrection.

Anyway, here are the copies of the ad, the original article, the legal threats from Lachlan and a piece detailing the chronology of the threats.

We will publish a special Crikey at 5 pm Monday to coincide with the NTY ad.

Myself, Eric or Will are happy to talk.

All best

Peter

Peter

August 1 email from MB

Hi, I've reworked the letter to be far more rude and entertaining while still claiming the high ground of reasonableness. It may actually make Churchill's head explode.

Regarding publishing the correspondence, the letters exchanged so far are:

1. Churchill to Private Media 30 June
2. Minters to Churchill 7 July
3. Churchill to Minters 19 July
4. Marque to Churchill 27 July
5. Churchill to Marque 29 July

The first two letters from Churchill are marked "Private & Confidential – Not for Publication". Minters' letter and ours do not say anything about confidentiality. Churchill's last letter doesn't include the confidentiality claim.

There is nothing preventing you from publishing all of the correspondence. You could only be restrained if you had agreed to not do so, which you clearly have not. Confidentiality cannot be imposed unilaterally, and there's nothing in the correspondence on which Churchill could base an argument that his demand for confidentiality had been even acknowledged, let alone accepted.

It is seen in some quarters as poor form to publish such correspondence, but that has no legal status. My personal



view is that it's not at all improper, all the more so when the complainant is a champion of free speech.

Minters cannot prevent you from publishing its letter on confidentiality grounds. The only obligation of confidence as between you and Minters is the one it owes to you; it doesn't work the other way. Technically, Minters owns the copyright in its own letter, so reproducing the letter without its consent would be an infringement of its copyright. I can't see it trying to prosecute the infringement. However, you could redact all references to the name of the firm and its employees from the published versions of Minters' letter and Churchill's reply, if that's its preference and you don't care either way.

# CRIKEY MURDOCH CAMPAIGN



**Briefing Paper: Positioning Crikey to Campaign Effectively**

## CONTEXT

This campaign relates to the issue of legal threats from Lachlan Murdoch following links made in Crikey content between Fox News and the January 6th Capitol insurrection. Murdoch disputes any such link, and Private Media must decide how to respond in a way that both protects the publisher and also positions Crikey for a moral victory that grows subscriber numbers.

None of what follows should be construed as legal advice regarding the strength of any defamation action, nor the actions Crikey should take to defend itself against this defamation action. This advice is strictly limited to campaign and public relations strategy, and Populares recommends legal advice also be sought regarding the ramifications of our campaign strategy suggestions to any potential defamation action.

## 1. TOPLINE ADVICE

Our key analysis is that in order to be successful in this campaign, Lachlan Murdoch **will need to launch a defamation action** against the publisher.

This would provide the narrative hook, point of interest/difference, and level of seriousness in order for this campaign to appeal to a broader base than simply Crikey's current audience. Without a defamation action, these elements are too thin. It is not surprising that the Murdoch's would reject the assertion made, nor that they would intimidate through lawyerly threats.

What would make this stand out was their being prepared to drag a small independent publisher through court over the issue of their complicity into January 6. It would be a notable escalation and a tangible action that could provide the foundation for interest in the conflict.

### What happens if there is no writ issued?

It is difficult to see this generating outside interest if there is no writ issued.

The campaign goals are:

- To prevent further threats from Lachlan Murdoch or Fox Corporation
- To generate interest in Crikey from new audiences
- To drive traffic to the Crikey website
- To increase the number of subscribers

In the absence of a specific defamation action it will be difficult to break through to these new audiences, and therefore achieve the subsequent growth goals. We can foresee the publishing of the letters and a suite of articles on the topic driving increased engagement from existing subscribers (which may also be an internal goal in general for Private Media), but would suggest the risks outweigh the benefits where there is also failure to drive any new subscribers.

### **What happens if there is a writ issued?**

The above advice notwithstanding, we believe the key recommendation to ensure success in this campaign is to think globally. If you can find interest in this case in the US — from the media and from partner organisations — then that will make the domestic Australian media more likely to cover the issue independently of Crikey's own self-coverage.

The second key feature of a response will be to present easily digestible facts about the link between Murdoch and January 6 (to accompany the opinion/analysis that Crikey will be publishing). The key narrative framing for this should be focused on a discussion as to *the degree to which Fox News/Murdoch is complicit* rather than the degree to which Crikey did/did not defame Murdoch.

The third key feature of an approach should be to frame the reader action: that the best way to support Crikey and to take a stand against this behaviour is to buy a subscription.

## **2. FRAMING**

As mentioned above, the recommended frame is to keep focus on the degree to which Murdoch and Fox News are complicit. That makes the best framing:

*“The slightest mention of January 6th and the lawyers are called in to silence the suggestion. What is Lachlan Murdoch worried about coming to light?”*

The goal is to make the discussion one about the degree to which the Murdochs are complicit and connected to the events, and to keep focus on their actions and intentions. This is akin to the ‘truth’ defence, where the party who wishes to bring an action against a publisher is made to sit through the airing of the details of the issue they are trying to suppress. By making the action uncomfortable and potentially more embarrassing than the original publication, the stakes of continuing the conflict are raised.

The second recommended frame is to suggest the motivations behind the complaint are not genuine, but are designed to silence and suppress the truth. Here, Crikey can play David to the

Goliath and take a brave stand against the powerful. This frame should reinforce the commercial incentive for the Murdoch companies to remove independent media voices from Australia, not the ideological differences of the debate.

Thirdly, the frame for ‘what to do about it’ should always present subscription as a values-based action, not in terms of the usual value proposition for the reader (of performing a useful service to them, ie the collection and presentation of news and analysis).

## Messaging Grid

Our recommended key messages are provided in a simple and clear messaging grid.

	FACTS	MOTIVATIONS	ACTION
	Key Message 1	Key Message 2	Key Message 3
	<i>Murdoch/Fox News is complicit in January 6th</i>	<i>Murdoch/Fox News is trying to bully Crikey into silence</i>	<i>The best way you can take a stand is by subscribing to Crikey</i>
<b>Key Supporting Message 1</b>	The facts support our assertion	The way the powerful exert control is by legal intimidation	Independent media is our last bulwark against media monopolies
<b>Key Supporting Message 2</b>	Murdoch is worried about exposure to this link	News media companies should support free speech	News funded by advertising has perverse incentives
<b>Key Supporting Message 3</b>	Therefore he is panicking into silencing any mention of it	Defamation laws in Australia are broken	Collectively we can match the power of Murdoch

## 3. GLOBAL STRATEGY

The option to consider for best impact is to think of this campaign in global terms, not merely of interest to the Australian market. It will be difficult for the campaign to independently gain traction with the Australian media, coming as it does from a rival Australian news publication.

Were the campaign to generate international attention, however, this would make the Australian media outlets more inclined to cover the issue themselves. This is the ultimate goal - to drive subscriptions, a new Australian audience must be reached, so it is hard to achieve this only through owned channels.

We would recommend pitching Eric or Peter to US cable news (CNN, MSNBC) and print (The New York Times, Washington Post), and in the UK to pitch Sky UK now that it is not owned by the Murdochs, just for an extra bit of delicious irony. A defamation action would be of interest to the US and UK media both to highlight the state of the defamation laws in each country, and when presented as of international importance as a threat to press freedom in Murdoch's native Australia. This would then lead a domestic public relations campaign in Australia.

The second feature of the global strategy would be to get partner organisations involved in the campaign. Here are some suggestions:

- Media Matters for America (US)
  - <https://www.mediamatters.org/fox-news/fox-hosted-members-congress-who-voted-against-certifying-election-over-900-times-2021>
  - <https://www.mediamatters.org/january-6-insurrection/lies-fox-telling-about-january-6-hearing>
- Avaaz (Global)
  - [https://secure.avaaz.org/campaign/en/murdoch\\_campaign\\_report/](https://secure.avaaz.org/campaign/en/murdoch_campaign_report/)
- 38 Degrees (UK)
  - <https://home.38degrees.org.uk/category/murdoch/rupe-rt-murdoch/>

In Australia the domestic partners would likely be:

- GetUp
- Australians for a Murdoch Royal Commission

## 4. CONTENT STRATEGY

Crikey should develop a suite of advertising content to deploy across your owned channels which drives subscribers and casual browsers to your actions. This content can be deployed quickly and cost effectively through digital channels on Facebook/Instagram and Google display and search channels.

The advertising should spell out the facts of the campaign and highlight the key facts around the January 6 link to News Limited.

Content ideas include:

- Top 5 examples of outrageous News Ltd clips
- Key quotes from News Commentators

- “David’ vs ‘goliath” - Crikey versus News
- Boosted News of Crikey articles removed from the paywall

## 5. SUPPORTER ACTIONS

The goal of the campaign is to drive supporters through a ladder of engagement.

You create a low barrier to entry for supporters to get involved and then take them on the journey with you as you stand up for independent fact based news.

The typical supporter journey is:

### Action Sequence

Petition Action - Signing the petition. Note that the Facebook ad should link directly to a petition page, and not a campaign information page.

Subscription Action - Donate to support the campaign *in the form of a Crikey subscription*. If there is a specific tactic we can reference, that is preferable, as that improves results. This is the crowdfunding element — having supportive audiences see a subscription as a donation.

Share Action - Sharing the petition or subscription action with friends on social media.

A low barrier petition action, with as little friction as possible, will maximise acquisition of new supporters. By following the petition with a donation ask, the paid Facebook advertising campaign can partially subsidize itself (i.e., if 25% of the cost of a new acquisition is covered by incoming subscriptions, that can be reinvested in further paid acquisitions). More importantly, this process allows Crikey to immediately identify potential subscribers among new supporters.

### Third Party Validators

Third party validators can be huge boosts to campaign engagement. They bring the authority of their position to validate the campaign problem as an important issue or to validate the campaign strategy, solution, tactic, etc. Crikey should enlist the support of Academics, high profile defamation lawyers and media commentators to broaden the circle of those who are concerned and elevate the issue on the mind of the audience as being bigger than one media outlet and attack on free speech and independent journalism.

Crikey should identify and brief key academics and defamation lawyers on the case so they are available to comment in the media.

## John Churchill

---

**From:** Will Hayward <whayward@privatemedia.com.au>  
**Sent:** Monday, 15 August 2022 8:59 AM  
**To:** Kevin Cooper  
**Subject:** Fwd: Good to talk...in confidence  
**Attachments:** Populares\_ Private Media Advice (1).pdf

-----  
**Will Hayward**  
Chief Executive Officer  
Private Media  
0481 112 662



*I respectfully acknowledge the Traditional Owners of the land where Private Media operates, the Boon Wurrung and Woiwurrung (Wurundjeri) peoples of the Kulin Nation, and pay respect to their Elders, past and present.*

----- Forwarded message -----

**From:** Will Hayward <[whayward@privatemedia.com.au](mailto:whayward@privatemedia.com.au)>  
**Date:** Fri, 12 Aug 2022 at 06:23  
**Subject:** Fwd: Good to talk...in confidence  
**To:** Eric Beecher <[ebeecher@privatemedia.com.au](mailto:ebeecher@privatemedia.com.au)>, Peter Fray <[pfray@privatemedia.com.au](mailto:pfray@privatemedia.com.au)>

I have suggested we speak to them at 12.30.

There isn't a great deal of value in here.

W

-----  
**Will Hayward**  
Chief Executive Officer  
Private Media  
0481 112 662

*I respectfully acknowledge the Traditional Owners of the land where Private Media operates, the Boon Wurrung and Woiwurrung (Wurundjeri) peoples of the Kulin Nation, and pay respect to their Elders, past and present.*



----- Forwarded message -----

From: **Anthony Reed** <[anthony@populares.co](mailto:anthony@populares.co)>

Date: Thu, 11 Aug 2022 at 12:56

Subject: Re: Good to talk...in confidence

To: Will Hayward <[whayward@privatemedias.com.au](mailto:whayward@privatemedias.com.au)>

Cc: Ed Coper <[ed@populares.co](mailto:ed@populares.co)>, Peter Fray <[pfray@privatemedias.com.au](mailto:pfray@privatemedias.com.au)>

Hi Will,

We are available tomorrow morning to talk through with you at 9:30 am if you are available?

Regards

Anthony Reed

0402399572

Co-Founder - Populares

[Populares.co](http://Populares.co)

[anthony@populares.co](mailto:anthony@populares.co)

On 11 Aug 2022, at 7:46 am, Will Hayward <[whayward@privatemedias.com.au](mailto:whayward@privatemedias.com.au)> wrote:

Great. Would be good to do a call subsequently to run through it. Let me know when suits.

W

On Wed, 10 Aug 2022 at 6:24 pm, Anthony Reed <[anthony@populares.co](mailto:anthony@populares.co)> wrote:

Hi Will

Yes it's nearly done I'll send through mid morning tomorrow.

Cheers

Anthony Reed

0402399572

On 10 Aug 2022, at 6:19 pm, Will Hayward <[whayward@privatemedias.com.au](mailto:whayward@privatemedias.com.au)> wrote:

Ed/Anthony - any update on this?

Thanks

Will

On Mon, 8 Aug 2022 at 6:10 am, Will Hayward <[whayward@privatemedias.com.au](mailto:whayward@privatemedias.com.au)> wrote:

Hi Ed,

Please see [here](#) a google drive with the various letters in order. We intend to send the below response today to Churchill's most recent message (with the usual intro and outro).

*It is not Crikey's responsibility to solve a problem that you and your client have created. You are asking that our client apologise for the most extreme possible interpretation of our article, but not explain what that interpretation is. Readers would think our client is apologising for the article itself. It won't. It stands by its reporting.*

We do now feel it is unlikely that they are going to issue a writ. This concerns me - it might be the case that we publish and there is limited interest. Can you have a think about whether this is likely, and what we can do for maximum impact?

Also shared [here](#) a current publishing plan for day 1. We intend to publish all correspondence between both parties.

W

-----  
**Will Hayward**  
Chief Executive Officer  
Private Media  
0481 112 662

*I respectfully acknowledge the Traditional Owners of the land where Private Media operates, the Boon Wurrung and Woiwurrung (Wurundjeri) peoples of the Kulin Nation, and pay respect to their Elders, past and present.*

On Fri, 5 Aug 2022 at 15:21, Ed Coper <[ed@populares.co](mailto:ed@populares.co)> wrote:

Hi Will, thanks - that works for us. We'll get started on Monday and let you know what info we need from your end.

A quick update on where things are since our last conversation ie. whether the letter was sent and any response, and timetable for making this public would be great.

cheers,  
Ed

On Thu, 4 Aug 2022 at 17:13, Will Hayward <[whayward@privatemedias.com.au](mailto:whayward@privatemedias.com.au)> wrote:

Ed, Anthony - can we engage you to build an initial plan? Perhaps limited to two days work. You might propose two/three angles of approach. This would give us an idea of how we could use you on a longer term basis.

Does that work?

W

-----  
**Will Hayward**

Chief Executive Officer

Private Media

0481 112 662

*I respectfully acknowledge the Traditional Owners of the land where Private Media operates, the Boon Wurrung and Woiwurrung (Wurundjeri) peoples of the Kulin Nation, and pay respect to their Elders, past and present.*

On Tue, 2 Aug 2022 at 19:52, Will Hayward <[whayward@privatemedia.com.au](mailto:whayward@privatemedia.com.au)> wrote:

OK thanks for clarity.

Will have a think then come back.

W

-----  
**Will Hayward**

Chief Executive Officer

Private Media

0481 112 662

*I respectfully acknowledge the Traditional Owners of the land where Private Media operates, the Boon Wurrung and Woiwurrung (Wurundjeri) peoples of the Kulin Nation, and pay respect to their Elders, past and present.*

On Tue, 2 Aug 2022 at 19:47, Ed Coper <[ed@populares.co](mailto:ed@populares.co)> wrote:

Hi Will, we're not in a position to discount any further unfortunately.

Cheers,  
Ed

On Tue, 2 Aug 2022, 9:19 am Will Hayward, <[whayward@privatemedia.com.au](mailto:whayward@privatemedia.com.au)> wrote:

Thanks for this Ed.

Is there anything else you can do on the rate? We want to work with you guys but need to be super cost conscious. With legal fees included this gets expensive very quickly. There is another provider in the mix with a lower rate - but, again - we want to work with you guys.

Regards the initial scope of work, can you help us connect with any initial outreach to get others talking about what has happened/what we're doing?

Signed NDA [here](#)

Will

-----  
**Will Hayward**  
Chief Executive Officer  
Private Media  
0481 112 662

*I respectfully acknowledge the Traditional Owners of the land where Private Media operates, the Boon Wurrung and Woiwurrung (Wurundjeri) peoples of the Kulin Nation, and pay respect to their Elders, past and present.*

On Mon, 1 Aug 2022 at 20:16, Ed Coper <[ed@populares.co](mailto:ed@populares.co)> wrote:  
Hi Will,

Great to chat earlier. Our NDA is attached.

We've had a look at the letters and can see no reason not to proceed with your plans for them at this stage.

In terms of our approach, we think there are two clear phases:

1. some work in the immediate term to determine the best campaign approach
2. a campaign phase triggered by the Murdoch decision to pursue litigation

We are happy to dive in to provide some recommendations on the first point, and deliver you a piece of advice as to how to build the right campaign.

We would offer you our discounted nonprofit day rate of \$1650, and would think this is 2-3 days of work we could complete over the next week.

Let me know your thoughts  
Ed

On Mon, 1 Aug 2022 at 18:03, Will Hayward  
<[whayward@privatemediacom.au](mailto:whayward@privatemediacom.au)> wrote:  
Thanks for talking earlier.

Ed - can you share your usual pricing structure?

Thanks

Will

On Mon, 1 Aug 2022 at 5:21 pm, Peter Fray <[pfray@privatemedia.com.au](mailto:pfray@privatemedia.com.au)> wrote:

1= Crikey article  
4 = original letter from Murdoch layer  
5 = initial response from Minters

Final doc, draft of letter proposed to send to Churchill from Bradley tomorrow.

Regards

Peter

On 1 Aug 2022, at 4:07 pm, Will Hayward  
<[whayward@privatemedia.com.au](mailto:whayward@privatemedia.com.au)> wrote:

Great, speak then. Will send over an invite now.

-----  
**Will Hayward**  
Chief Executive Officer  
Private Media  
0481 112 662

*I respectfully acknowledge the Traditional Owners of the land where Private Media operates, the Boon Wurrung and Woiwurrung (Wurundjeri) peoples of the Kulin Nation, and pay respect to their Elders, past and present.*

On Mon, 1 Aug 2022 at 16:06, Ed Coper <[ed@populares.co](mailto:ed@populares.co)> wrote:

Works for me, cc'ing my colleague Anthony Reed who can join too.

On Mon, 1 Aug 2022 at 15:32, Peter Fray  
<[pfray@privatemedia.com.au](mailto:pfray@privatemedia.com.au)> wrote:

445. Best to make a start

On 1 Aug 2022, at 3:29 pm, Will Hayward  
<[whayward@privatemedias.com.au](mailto:whayward@privatemedias.com.au)>  
wrote:

Thanks Eric (bcc).

Ed, could you talk today at 4.45 for 30  
mins? Or, tomorrow morning?

W

-----  
**Will Hayward**  
Chief Executive Officer  
Private Media  
0481 112 662

*I respectfully acknowledge the Traditional  
Owners of the land where Private Media  
operates, the Boon Wurrung and  
Woiwurrung (Wurundjeri) peoples of the  
Kulin Nation, and pay respect to their  
Elders, past and present.*

On Mon, 1 Aug 2022 at 15:21, Eric Beecher  
<[ebeecher@privatemedias.com.au](mailto:ebeecher@privatemedias.com.au)> wrote:  
Ed,

Great to talk this afternoon. I've talked to  
Peter and Will, and they would love to  
connect with you.

Regards

Eric

On Mon, 1 Aug 2022 at 1:16 pm, Ed  
Coper <[ed@populares.co](mailto:ed@populares.co)> wrote:  
Hi Eric, great - yes happy to chat this  
afternoon.

I'm on 0408 662 575

cheers,  
Ed

On Mon, 1 Aug 2022 at 09:52, Eric Beecher  
<[ebeecher@privatemedia.com.au](mailto:ebeecher@privatemedia.com.au)>  
wrote:

Ed: we now have our ducks in a row, so wondering if you would be up for a chat today?

Regards

Eric

On Wed, 27 Jul 2022 at 3:56 pm, Ed Coper <[ed@populares.co](mailto:ed@populares.co)> wrote:  
Hi Eric - no problem, looking forward to hearing more about it.

cheers,  
Ed

On Wed, 27 Jul 2022 at 15:38, Eric Beecher  
<[ebeecher@privatemedia.com.au](mailto:ebeecher@privatemedia.com.au)>  
wrote:

Ed: nice to e-meet you. We're just juggling a few final bits of our project, so I'll contact you once that's done if that is ok.

Regards,

Eric

**Eric Beecher**

Chairman Private Media | Solstice  
Media | Australian Communities Foundation

Phone [+61 412 584 251](tel:+61412584251)

[ebeecher@privatemedia.com.au](mailto:ebeecher@privatemedia.com.au)

Private Media Pty Ltd, [107 Elizabeth Street,  
Melbourne VIC 3000](#)

On Tue, Jul 26, 2022 at 11:09 AM  
Michael Bradley  
<[michaelb@marquelawyers.com.au](mailto:michaelb@marquelawyers.com.au)>  
wrote:

Hi Ed, Kiera Peacock gave me your email address. I'm writing because I'd like to introduce you to Eric Beecher, the publisher of Crikey. Crikey is about to get itself immersed in a big fight and is looking for expert help with campaign management. You come recommended, and not just by us. I'll let Eric explain what it's all about.

Cheers

Michael

**Michael Bradley**

Managing Partner

MARQUE Lawyers Pty Ltd  
<image003.jpg>

P: +61 2 8216 3006 / M: 0419 610 016

Gadigal Country, Level 4, [343 George Street, Sydney NSW 2000](#)

[marquelawyers.com.au](http://marquelawyers.com.au) / [LinkedIn](#) / [Twitter](#) / [Instagram](#)

Official lawyers for [TEDxSydney](#)

*We do not disclaim anything about this email.  
We're quite proud of it, really.*

--

Ed Coper | +61 408 662 575



Signal/Whatsapp: +1 646 229 0182

@edcoper | [populares.co](http://populares.co)



[Facts and Other Lies \(Allen & Unwin\) is out now](#)

--

**Eric Beecher**

Chairman Private Media | Solstice  
Media | Australian Communities Foundation

Phone [+ 61 412 584 251](tel:+61412584251)

[ebeecher@privatemediacom.au](mailto:ebeecher@privatemediacom.au)

Private Media Pty Ltd, [107 Elizabeth Street, Melbourne VIC 3000](#)

--

**Ed Coper** | +61 408 662 575

Signal/Whatsapp: +1 646 229 0182

@edcoper | [populares.co](http://populares.co)



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--

**Eric Beecher**

Chairman Private Media | Solstice  
Media | Australian Communities Foundation

Phone [+ 61 412 584 251](tel:+61412584251)

[ebeecher@privatemediacom.au](mailto:ebeecher@privatemediacom.au)

Private Media Pty Ltd, [107 Elizabeth Street, Melbourne VIC 3000](#)

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Will Hayward  
CEO, Private Media  
0481 112 662

--

Ed Coper | +61 408 662 575  
Signal/Whatsapp: +1 646 229 0182  
@edcoper | [populares.co](http://populares.co)



[\*Facts and Other Lies \(Allen & Unwin\) is out now\*](#)

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Will Hayward  
CEO, Private Media  
0481 112 662

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Will Hayward  
CEO, Private Media  
0481 112 662

# Crikey.



**The Lachlan Murdoch  
Letters Campaign**

## Outline

- Editorial plan
- Technical plan
- Marketing plan
- Social strategy
- Mock ups
- Timeline
- Wishlist

**Decisions needed are bolded throughout presentation.**



## Editorial newsletters

Monday, August 15

- Republish original article

Thursday, August 18 Launch

- Daily send: total content takeover to launch
- Daily.2 send: 30 min to 1 hour later to nonpaying subs, with marketing material added
  - Marketing material responsibility: Rachael (due Tuesday)

August 19 - 31

- Daily sent to “all”

Dynamic content:

[https://docs.google.com/document/d/1z1JcLqMC4u4CbwFNkH8gzU6u9\\_yeKWWPTpJwGKtHGqM/edit?usp=sharing](https://docs.google.com/document/d/1z1JcLqMC4u4CbwFNkH8gzU6u9_yeKWWPTpJwGKtHGqM/edit?usp=sharing)



- Monday, August 15
    - Republish original article
  - Thursday, August 18
    - 12:01am
      - Publishing 8 stories (Why we're doing this, Chronological order, Open Letter, Original article, Initial letters): Production
      - One main social post on each channel, pinned, to topic page: Imogen
      - Homepage Screamer: Production(/Imogen?)
      - 50% off sale begins (Marketing/Ads)
    - 7am
      - Worm takeover: Production
      - 8 stories (Why we're doing this, Chronological order, Open Letter, Original article, Initial letters)
      - Intro explaining why we're doing this, and that everyone will be getting the Daily for next two weeks
      - Sender - Crikey Special Edition
      - Lists - Crikey Worm, Crikey Special Edition
      - Format - Daily
      - Includes Image of the newspaper ad: Zennie/Production
    - Midmorning (10-11ish)
      - Daily special edition: Production
      - Remainder of Day 1 stories
      - Sender - Crikey Special Edition
      - Lists - Crikey Daily, Crikey Special Edition
      - Format - Daily
      - Full social of all pieces - Imogen
      - If breaking news, a pointer to the homepage with more info
- This is to coincide with the launch of newspaper advertising, and to take advantage of the American news cycle.



## Editorial newsletters

Date	Time	NL	List	Publishing list/Sender	Notes
22 Aug	5pm	Daily	Crikey Daily - Active and Trialling, Crikey - SPECIAL EDITION - MASTER - Active Trialling and Lapsed	Special Edition/Daily	Initial articles
23 Aug	6am	Worm	Crikey - SPECIAL EDITION - MASTER - Active Trialling and Lapsed, Crikey Worm - Combined	Special Edition/Special Edition	Worm takeover, top stories
23 Aug	12pm	Daily	Crikey Daily - Active and Trialling, Crikey - SPECIAL EDITION - MASTER - Active Trialling and Lapsed	Special Edition/Daily	Early Daily
24 - 31 Aug	12:15 pm	Daily	Crikey Daily - Active and Trialling, Crikey - SPECIAL EDITION - MASTER - Active Trialling and Lapsed	Special Edition/Daily	Normal Daily (normal Worm too)
1 Sept	12:15 pm	Daily	Crikey Daily - Active and Trialling	Daily/Daily	Back to normal



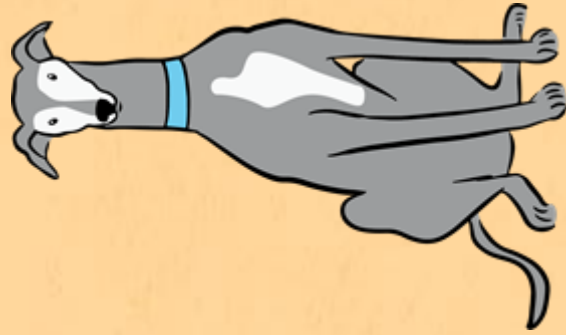
## Paywall and free trials

- Topic page to house all articles and pieces
  - Locked until Monday 4:30pm
  - Responsible party: Rachael
- Free trial pushes replaced with sale information
  - Includes paywall, modules, socials
  - Responsible party: Rachael
- Sign ups through article paywalls will link back to article they were originally on
  - Plan B: links back to article page
  - Dev linking coupon code of sale to track this
  - Responsible party: Dev





# Marketing campaign plan



## Marketing campaign plan

[Asana ticket](#)

Promo code: [LETTERS](#)

Newsletter plan: starts launch day, continues every 2 days

- Email 1: Strong sale intro
- Email 2 (Monday 12:30pm): Why Crikey and teaser for tonight
- Editorial email (Monday 5pm): included within launch email
- Email 3 (Thursday): Latest developments, Crikey Talkslet me
- Email 4 (Saturday): Impact
- Email 5 (Tuesday, 30th): Ends tomorrow
- Email 6 (Wednesday, 31st): Ends midnight



## Marketing campaign plan: Gifts (if possible)

Promo code: [LETTERS](#)

Newsletter plan: starts launch day, continues every 2 days

- Email 1 (Wednesday): Strong sale intro
- Email 2 (Saturday): Gift plus CT push
- Email 3 (Tuesday, 30th): Ends tomorrow plus CT push
- Email 4 (Wednesday, 31st): Ends midnight plus CT push



## Copy and Design

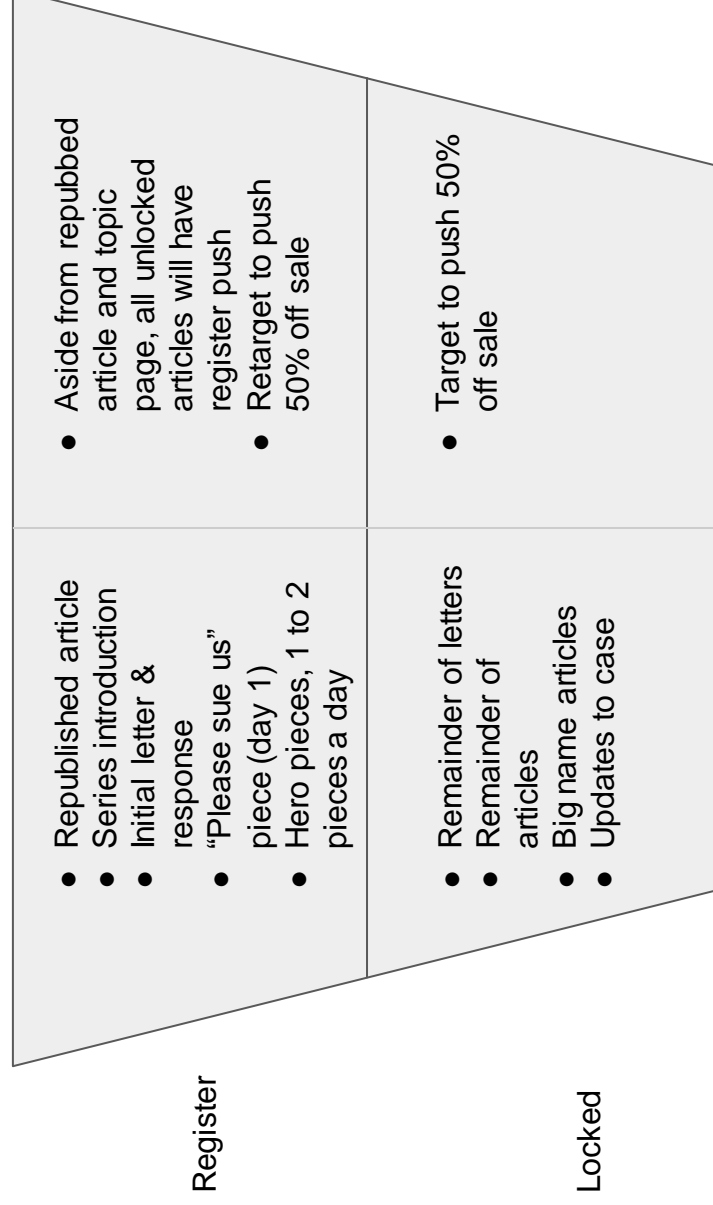
### Needs to be sent to legal Friday

- [Overall copy needed](#)
  - Responsible party: Glenn, due Thursday
- [Sale messaging guide](#)
  - Responsible party: Rachael, awaiting Glenn sale copy, due Friday
- [Dynamic content](#)
  - Responsible party: Rachael, awaiting Glenn sale copy, due Friday
- 5 email headers
  - Matching article headers
  - Responsible party: Zennie, due Thursday
- Social ads, on site ads
  - Matching article headers
  - Responsible party: Zennie, first set due Thursday





# Funnel



Ratio of unlocked to locked = 20:80



## Budget

### Marketing budget: \$20,000

- Paid media: \$15,000
  - Strategy: Push articles, boosting organic
- Merchandise: \$5,000
  - Strategy: Should this lead to a fuller story, merchandise added in

### Additional

- Print media: \$50,000
  - Strategy: Full page open letter ads in major newspapers across Australia



## First day email marketing intro

### **Intro:**

Dear Reader,

For the next two weeks you will be receiving the Daily, just like our paid members. This is because we are in a fight for freedom and think you deserve to see just how power works in Australia.

Below is today's Daily. We are putting our neck out here, and hope you're willing to walk the hard path with us. [Consider becoming a member](#) to help support independent media and make sure we can continue to speak truth to power.

### **Sign off:**

Thank you for joining us as this story develops. We have so much more to share with you over the next two weeks. Enjoy your access and please feel free to share the email with family and friends.



Very early draft of email example



# Product inclusions



## Product idea

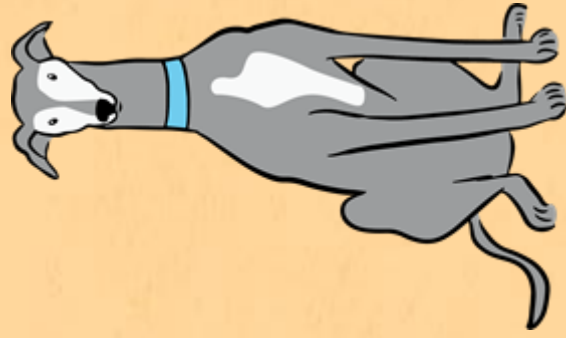
To take advantage of extra traffic, we will trial a simple registration wall on these articles. The easiest way is to use an external platform like Wisepops to create a targeted popup on load.

- Anthony to create structure
- Zennie to design
- Rachael/Glenn for copy

**Question: How does this interact with the paywall for the sale? Only on unlocked articles?**



# Social strategy



## Organic

- August 22: 5pm Special Edition - Full takeover
  - Sale changes over to: “See how power really works”
- August 22 - August 29:
  - Key quotes shared from articles
  - Updates posted in real time as much as possible
  - Additional articles posted as normal with matching design theme
  - Sale posts
- 30 August: Sale ends tomorrow
- 31 August: Sale ends midnight

Social posting responsibility: [Imogen for editorial content](#), Rachael for sale content

## Paid

- Budget: \$25,000
  - \$300 on ads
  - \$200 on boosting organic posts that hit minimum engagement targets
  - Exception: organic announcement post on launch day with \$1000 boost
- Ad set up: send to articles as the CTA, not the campaign page
- Budget breakdown by channel: (with by day breakdown)

Ad mock ups:

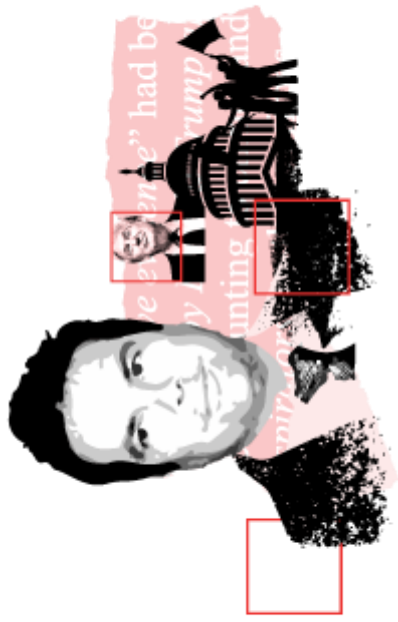
Responsible: William



# Mock ups



## Mock ups



# Article pop up

12 weeks of Crikey for \$12

Subscribe

Crikey.

NewsInvestigationsAnalysisOpinionPoliticsMediaEconomyHealthEnvironmentWorld

Q SearchSign InNewslettersElectioncast

Opinion / Politics

# Psycho-gate: Morrison in damage control as Liberals deny leaking texts

Wasn't me! Wasn't me! Senior ministers rush to declare their innocence as the prime minister says he's 'not fussed'.

KISHOR NAPIER RAMAN FEB 01, 2022 22

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Politics has changed

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Before you keep reading this free article, we'd love it if you took a moment to sign up. Get the latest from Crikey and support independent journalism.

Your email

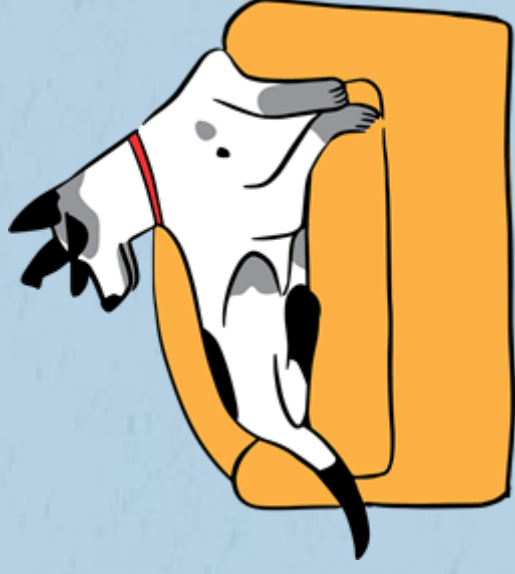
Join us

By submitting this form, you agree to accept Crikey's terms and conditions.  
G.D.P.R. 2018-2020





# Wishlist



## Recommendations

- Twitter Space
  - Bernard and Peter
    - Talk about the history with Murdoch, how Crikey is different, the background of the situation
- Tiktok
  - Bernard stars
    - Murdoch nearly sued us-thing
  - Imogen stars
    - Best bits of the legal letters ([quest star??](#))
- If sued we look into
  - Merch
  - OOH campaign
  - Special Edition newsletter with updates



## Site takeover

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News / Media

# 'Short, dumpy girl': Foxtel CEO insults Game of Thrones' Emilia Clarke at House of

Crikey.

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You can continue to access these articles by signing up for free. Thank you for supporting independent journalism.

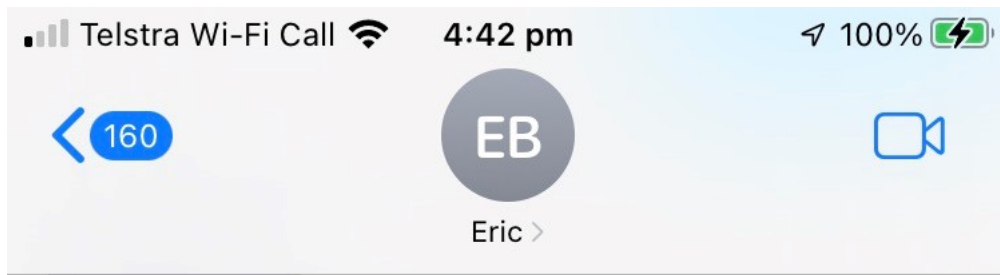
Your email

Get access

By submitting this form, you agree to accept Crikey's terms and conditions

© 2016 Crikey Ltd





Thu, 11 Aug, 8:42 am

When are you thinking about launching LM?

Wednesday

My piece and chronology are finished, in LM Copy doc.

Thanks

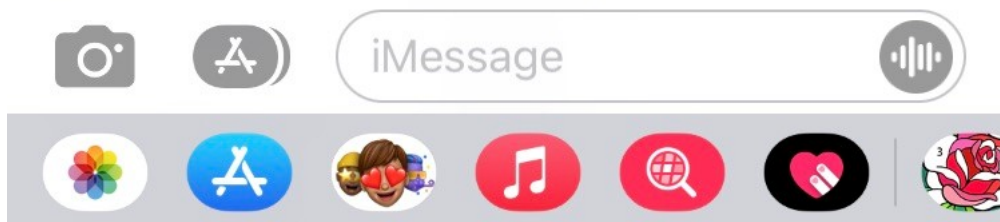
Thu, 11 Aug, 7:52 pm

Need to talk?

Tomorrow fine

Text Message  
Sun, 14 Aug, 12:13 pm

You missed a call, but the caller didn't leave a message.



## John Churchill

---

**From:** Will Hayward <whayward@privatemedias.com.au>  
**Sent:** Sunday, 14 August 2022 3:16 PM  
**To:** Anthony Reed; Ed Coper; Eric Beecher; Peter Fray  
**Subject:** FYI

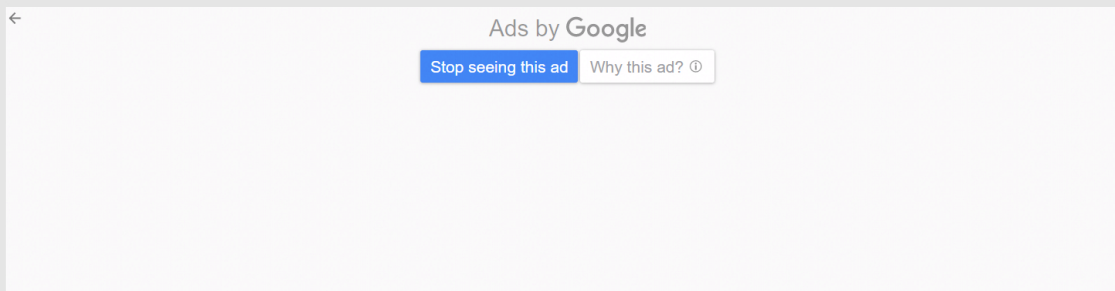
Someone leaked.

<https://www.smh.com.au/business/companies/lachlan-murdoch-sends-legal-threat-to-crikey-over-january-6-article-20220813-p5b9ll.html>

Don't think this changes anything.

--

-----  
Will Hayward  
CEO, Private Media  
0481 112 662



News / Media

## A statement: 'We stand by our reporting and we welcome Lachlan Murdoch's writ.'

Lachlan Murdoch has filed a defamation suit against Crikey. We look forward to testing what honest public debate means in Australia.

PETER FRAY AND ERIC BEECHER AUG 24, 2022 36

[Share](#)



(IMAGE: PRIVATE MEDIA)

Crikey stands by its story and we look forward to defending our independent public interest journalism in court against the considerable resources of Lachlan Murdoch.

We are determined to fight for the integrity and importance of diverse independent media in Australian democracy.

We welcome Lachlan Murdoch's writ. Crikey's [Lachlan Murdoch letters series](#) this week reveals how media power works in this country. We believe that coverage of the events of January 6 at the US Capitol, and the role of Fox News in those events, is absolutely legitimate.

We welcome the chance to test what an honest, open and public debate actually means for free speech in Australia. We stand by our reporting.

ABOUT THE AUTHORS

### Peter Fray

EDITOR-IN-CHIEF [@PETERFRAY](#)

Peter Fray is Crikey's editor-in-chief and managing editor of Private Media. He is formerly the editor-in-chief of *The Sydney Morning Herald* and *The Sun-Herald*.





the editor of the *SMH*, *The Sunday Age* and *The Canberra Times* and the deputy editor of *The Australian* and *The Sun-Herald*. In 2013, he started PolitiFact Australia, the country's first stand-alone fact-checking website.

# Eric Beecher

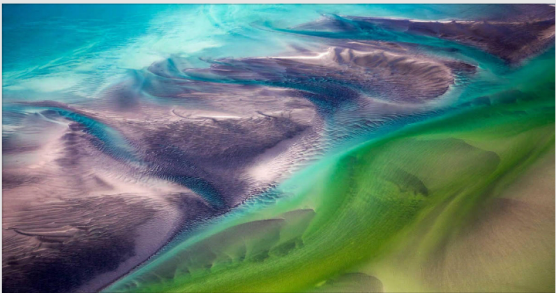
CHAIRMAN OF PRIVATE MEDIA

Eric Beecher is the chairman and co-founder of Private Media, publisher of *Crikey*, *The Mandarin* and *Smart Company*, chairman of Australian Communities Foundation and a board member of PIJI, the Public Interest Journalism Initiative. He's been an editor and executive at Fairfax and News Corp and was co-founder of Text Media.



TOPICS

- CRIQUEY
- LACHLAN MURDOCH
- THE LACHLAN MURDOCH LETTERS



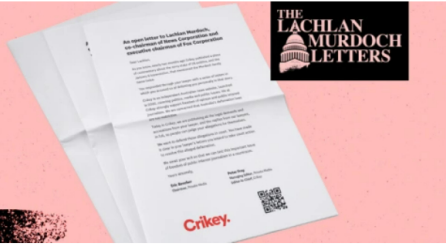
## Sail the Wondrous Kimberley

Quiet your mind and open your soul in the stunning Kimberley. Venture aboard Le Ponant!

PONANT

Open >

### Related articles



An open letter to Lachlan Murdoch, co-chairman of News Corporation and executive chairman of Fox Corporation

MEDIA • ERIC BEECHER AND PETER FRAY • AUG 22, 2022 36



The power of one: how Lachlan Murdoch turned nuclear over a legitimate piece of journalism

MEDIA • ERIC BEECHER AND PETER FRAY • AUG 22, 2022 19



The Lachlan Murdoch letters in full: Fox CEO demands Crikey apologise

MEDIA • CRIQUEY • AUG 22, 2022 4

36 comments

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It looks like this is your first time commenting - please note that your username will be displayed as **Kylie May**. If you'd like to change this, [click here](#).

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**The dude abides..** 4 months ago

Where can I donate \$ to a legal fighting fund?

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Reply to [The dude abides..](#)

Aux armes, citoyens.

+ 2 — Reply



**John R** 4 months ago

Fighting fund?

+ 6 — Reply



**The dude abides..** 4 months ago

Reply to [John R](#)

Don't be a smartarse..

+ 0 — Reply



**Sarah E** 4 months ago

I just subscribed. Hope that helps.

+ 16 — Reply



**DF** 4 months ago

Reply to [Sarah E](#)

Welcome aboard from a subscriber of 22 years.

+ 3 — Reply



**zut alors** 4 months ago

Reply to [DF](#)

I'm a relative newcomer of 18 years. It's encouraging to see new names among the posters.

The plaintiff's camp has suggested this is a ploy by Crikey to gain new subscribers. Seems to be working.

+ 0 — Reply



**kmart60** 4 months ago

Reply to [zut alors](#)

Well if it is, Lachie just played right into Crikey's hands.  
Haha.

+ 1 — Reply





**Laslow Becker** 4 months ago

[Reply to Sarah E](#)

Same here.

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# Web Data Collection Report

## Page Title

<https://twitter.com/BernardKeane/statuses/1564795699476119552>

## URL

<https://twitter.com/BernardKeane/statuses/1564795699476119552>

## Collection Date

Fri Sep 02 2022 13:14:16 GMT+1000 (Australian Eastern Standard Time)

## Collected by

pascallas@pascallas.com.au (pascallas@pascallas.com.au)

## IP Address

114.74.237.10

## Browser Information

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/104.0.0.0 Safari/537.36

## Digital Signature (SHA256 / PKCS#1v1.5)

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# File Signatures

## SCREEN CAPTURE

### MHTML

#### File Name

https-twitter.com-BernardKeane-statuses-1564795699476119552-Sep-02-22-13-14-16-GMT-1000-(AEST).mhtml

#### Hash (SHA256)

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File Name

https-twitter-com-BernardKeane-statuses-1564795699476119552-Sep-02-22-13-14-16-GMT-1000-(AEST)\_O.jpg

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# New business publication to target aspirational eyeballs

**Mark Di Stefano** *Reporter*

Sep 26, 2022 – 5.00am

Private Media has signed a deal to launch a new Australian-focused tech and business publication even as the company fights a potentially expensive defamation battle against Lachlan Murdoch.

The media company helmed by Eric Beecher has signed a four-year contract with US-based Mansueto Ventures to publish Inc. Australia.



SmartCompany and Inc. Australia editor in chief Simon Crerar, SmartCompany managing director Olivia McDonnell, Private Media CEO Will Hayward, and Private Media managing editor Peter Fray.

Under the arrangement Private Media will publish the news and journalism of Inc. online alongside its Smart Company brand in Australia.

Inc. focuses on news and content about tech companies and start-ups. It also publishes the so-called Inc. 5000 – a ranking of the top 5000 private companies according to revenue growth.

There will be competition in the space as first-time magazine publisher Michael Lane launches Forbes Australia [<https://www.afr.com/rear-window/how-to-buy-a-masthead-and-influence-people-20220921-p5bjs7>], targeting a similar audience of aspirational, tech-minded people. Both are licensing US mastheads to publish in Australia, with Forbes Australia planning to print several magazine issues each year.

#### RELATED QUOTES



For the effort, Private Media has hired Simon Crerar, the former general manager of BuzzFeed Australia and co-founder of grassroots journalism start-up PS Media.

“I am enormously excited to join Private Media, to launch Inc. in Australia, and help grow SmartCompany at a time when entrepreneurship has never been more central to the Australian economy,” Mr Crerar said.

## Defamation battle rolls on

“At a challenging moment for established SMEs and start-ups, I can’t think of a more important mission than serving the entrepreneurs driving Australia’s real economy.

“I have long-admired Simon’s energy, ideas and style,” Private Media managing editor Peter Fray said. “He is a class act, with a wealth of valuable experience.”

Bringing the US-brand to Australia comes at a pivotal moment for Mr Beecher, Mr Fray and Private Media, which has been embroiled in a high-profile defamation fight with News Corporation’s co-chairman.



Mr Murdoch brought defamation proceedings against the small Australian publisher over an op-ed published by Crikey this year linking the media mogul to the January 6 Capitol riot.



Private Media chairman Eric Beecher, the US Capitol on January 6, 2021, and Lachlan Murdoch. **Thom Rigney, AP, Getty**

To help with legal costs, Private Media launched a crowdfunding campaign hoping to raise \$3 million from readers and donors. According to its GoFundMe page, the campaign has raised around \$500,000 so far.

In the matter's first court hearing last Friday, Mr Murdoch's lawyers were critical about how the company had been using the defamation proceedings to garner media attention and sign up more subscribers.

If the court finds in favour of Mr Murdoch, Private Media could be on the hook to pay legal costs and aggravated damages, north of the current cap on standard damages of around \$440,000.

It is understood Private Media has defamation insurance that could cover damages payouts and legal fees associated with these claims. But the company is forgoing using the policy as the insurer may have forced it to settle with Mr Murdoch out of court.



**RELATED****Murdoch court action set to be first major test of defamation changes**

<https://www.afr.com/companies/media-and-marketing/turnbull-slams-hypocritical-lachlan-murdoch-over-defamation-suit-20220824-p5bc9k>

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**Mark Di Stefano** is the media and tech correspondent at The Australian Financial Review.

Connect with Mark on [Twitter](#). Email Mark at [mark.distefano@afrr.com](mailto:mark.distefano@afrr.com)

including a National Practitioners and Litigants Guide intended to provide guidance for the legal profession and litigants-in-person appearing in online hearings.

All guides are available on the Court’s website.

### Workload of the Federal Court and Federal Circuit and Family Court of Australia (Division 2)

The Federal Court has concurrent jurisdiction with the Federal Circuit and Family Court of Australia (Division 2) in a number of areas of general federal law including bankruptcy, human rights, workplace relations and migration matters. The registries of the Federal Court provide registry services for the Federal Circuit and Family Court of Australia (Division 2) in its general federal law jurisdiction.

In 2021–22, a total of 10,114 matters were filed in the two courts. The number of filings has an impact on the Federal Court’s registries, as the staff members of the Federal Court’s registries process the documents filed for both the Federal Court and Federal Circuit and Family Court (Division 2). The registries also provide the administrative support for each matter to be heard and determined by the relevant court.

### Case flow management of the Court’s jurisdiction

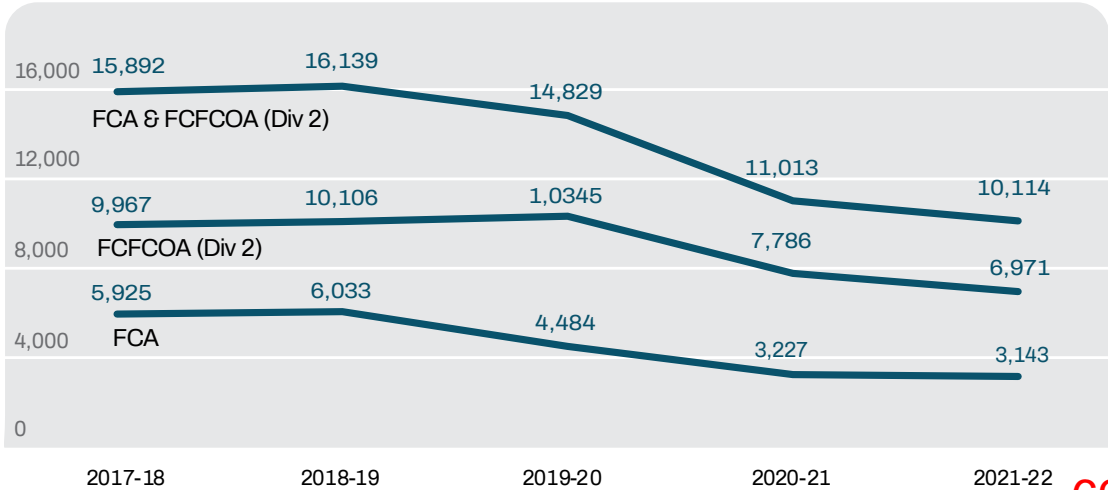
The Court has adopted, as one of its key case flow management principles, the establishment of time goals for the disposition of cases and the delivery of reserved judgments. The time goals are supported by the careful management of cases through the Court’s individual docket system and the implementation of practice and procedure designed to assist with the efficient disposition of cases according to law. This is further enhanced by the reforms of the National Court Framework.

Under the individual docket system, a matter will usually stay with the same judge from commencement until disposition. This means a judge has greater familiarity with each case and leads to the more efficient management of the proceeding.

### Disposition of matters other than native title

In 1999–2000, the Court set a goal of 18 months from commencement as the period within which it should dispose of at least 85 per cent of its cases (excluding native title cases). The time goal was set having regard to the growing number of long, complex and difficult cases, the impact of native title cases on the Court’s workload and a

FIGURE 3.1: FILINGS TO 30 JUNE 2022 – FEDERAL COURT OF AUSTRALIA AND FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2)



decrease in the number of less complex matters. The time goal is reviewed regularly by the Court in relation to workload and available resources. The Court's ability to continue to meet its disposition targets is dependent upon the timely replacement of judges.

Notwithstanding the time goal, the Court expects that most cases will be disposed of well within the 18 month period, with only particularly large and/or difficult cases requiring more time. Indeed, many cases are urgent and need to be disposed of quickly after commencement. The Court's practice and procedure facilitates early disposition when necessary.

During the five-year period from 1 July 2017 to 30 June 2022, 89 per cent of cases (excluding native title matters) were completed in 18 months or less; 81 per cent in 12 months or less; and 62 per cent in six months or less. See Figure A5.4 in Appendix 5 (*Workload statistics*). Figure A5.5 shows the percentage of cases (excluding native title matters) completed within 18 months over the last five reporting years.

### Delivery of judgments

In the reporting period, the Court handed down 1,889 judgments for 1,698 court files. Of these, 525 judgments were delivered in appeals (both single judge and Full Court) and 1,364 in first instance cases. These figures include both written judgments and judgments delivered orally on the day of the hearing, immediately after the completion of evidence and submissions. There was a decrease in the total number of judgments delivered in 2021–22 compared to the number of judgments delivered in 2020–21.

The nature of the Court's workload means that a substantial proportion of the decisions in the matters that proceed to trial in the Court will be reserved by the trial judge at the conclusion of the trial.

The judgment is delivered at a later date and is often referred to as a 'reserved judgment'. The nature of the Court's appellate work also means a substantial proportion of appeals require reserved judgments.

Appendix 7 includes a summary of decisions of interest delivered during the reporting year and illustrates the Court's varied jurisdiction.

## Workload of the Court in its original jurisdiction

### Incoming work

In the reporting year, 2,495 cases were commenced in, or transferred to, the Court's original jurisdiction. See Table A5.1.

### Matters transferred to and from the Court

Matters may be remitted or transferred to the Court under:

- *Judiciary Act 1903*, section 44
- Cross-vesting Scheme Acts
- *Corporations Act 2001*, and
- *Federal Circuit and Family Court of Australia Act 2021*.

During the reporting year, 174 matters were remitted or transferred to the Court:

- 6 from the High Court
- 18 from the Federal Circuit and Family Court of Australia (Division 2)
- 67 from the Supreme Courts, and
- 83 from other courts.

Matters may be transferred from the Court under:

- *Federal Court of Australia Act 1976*
- *Jurisdiction of Courts (Cross-vesting) Act 1987*
- *Administrative Decisions (Judicial Review) Act 1977*
- *Bankruptcy Act 1966*
- *Corporations Act 2001*, and
- *Administrative Appeals Tribunal Act 1975*.

During 2021–22, no matters were transferred from the Court.

### Matters completed

Figure A5.2 in Appendix 5 (*Workload statistics*) shows a comparison of the number of matters commenced in the Court's original jurisdiction and the number completed. The number of matters completed during the reporting year was 3,096.