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Challenge to media-gagging law to be heard by High Court tomorrow

Over February 10 and 11, the High Court will hear a constitutional challenge to a controversial NSW law that prohibits reporting on public interest matters, where the information or material has been obtained covertly.

Originally legislated for the purpose of protecting individual privacy and curtailing police surveillance powers, a loophole in the *Surveillance Devices Act 2007* (NSW) not found in the equivalent Acts of other states has been increasingly exploited to target whistleblowers in the animal agriculture industry, and the journalists who publish their revelations, with penalties of up to 5 years in prison. As the Act does not explicitly mention animal agriculture, its potential applications are far broader, with human rights issues – such as abuse of residents in nursing homes – also falling within its reach.

Animal protection organisation Farm Transparency Project, along with its founding director Chris Delforce who has previously been charged under the Act, are plaintiffs in the challenge that argues the law is in breach of the implied freedom of political communication in the Australian Constitution.

Chris Delforce: "Similar laws in other states have clear exemptions when the published material is in the public interest, but the NSW Government refuses to make such a simple but meaningful change. We've had enough – these industries need more transparency, not less. The animals suffering in our nation's farms, slaughterhouses, knackeries and greyhound training facilities deserve to have their stories told, and the Australian public deserves the opportunity to hear them."

Written submissions on behalf of the plaintiffs and defendant are available on the High Court's website: Farm Transparency International Ltd & Anor v. State of New South Wales. Due to the evolving situation with COVID-19, the hearing will be conducted remotely over a closed connection, but may be available as a recording afterwards.