



**Electronic
Frontiers**
AUSTRALIA

EFA Organisational Strategy 2019

What is EFA For?

EFA is a member-based not-for-profit organisation that enables digital rights in Australia.

Member-Based

Being member-based means EFA seeks the broad participation of a large number of people as members of EFA, and works through its members to achieve its goals.

While the board of EFA provides leadership and direction, the board is elected by the members to represent their interests and those of the wider community. We should continually ensure we have a mandate from our members to operate as we do.

Not-For-Profit

Profit simply means that the expenses of the organisation, over time, should be less than its income. Without profit, the organisation cannot pay its bills and would cease to exist.

Profit is used to enable EFA's purpose; profit is not a goal in and of itself.

Any profits that EFA enjoys are to be reinvested in the organisation to help it to become more effective at achieving its goals.

Enabling Digital Rights

Enabling digital rights means both promoting awareness of the existence of digital rights, and also helping to enshrine protections for digital rights in laws and systems of society.

Promotion means that we advocate for greater investment in digital rights and the benefits that flow to people and society from beneficial uses of technology. We are not technophobes or luddites. We believe digital technology benefits society, when used well.

Protection means that we wish to safeguard the benefits of digital technologies by preventing them from being undermined. This can take several forms:

1. Ensuring people are protected from arbitrary interference in their private communications by law enforcement authorities.
2. Ensuring that the digital technologies that people use to gain the benefits of a modern digital society do not undermine their rights.

We attempt to balance protection and saying *No* to harmful methods that harm digital rights by promoting alternate, beneficial methods that are rights preserving, wherever possible.

In some instances where we believe harm cannot be reduced to acceptable levels, we advocate that the precautionary principle means we must restrict or prevent the use of certain technologies completely. While we would prefer to avoid this, rights and freedoms that are not sufficiently protected in advance can be very difficult to regain later.

Digital rights are:

- Human rights in a digital context
- Consumer rights in a digital context

The digital context is essentially anything involving information processing with a computer, which in 2019 is almost everything. It is most useful as a signifier that there are new complexities with traditional 'analog' rights when you add low-friction information sharing and mass computation. For example, mass-surveillance is much easier when almost everyone uses a smartphone containing a massive amount of computing power, a built-in GPS, microphone, video camera, and an always-on data network to send information to authorities.

Human Rights in the Digital Realm

EFA refers to the UN Declaration of Human Rights¹ when examining human rights in the digital realm. More detail is provided as an Appendix.

EFA is focused on those human rights that are most affected by digital technologies. While we support human rights in general, EFA is a digital rights organisation, and so our efforts are focused there.

Consumer Rights in the Digital Realm

Consumer rights are also of concern for EFA, as digital technologies are embedded in much of the everyday experience for consumers in society.

¹ 'Universal Declaration of Human Rights' (6 October 2015)
<<https://www.un.org/en/universal-declaration-human-rights/index.html>>.

Digital products should be fit-for-purpose and perform as described. EFA believes that the same consumer rights and protections that exist for physical products should also exist for digital products.

Australian Focus

EFA is an Australian organisation, and so our primary focus is on digital rights in Australia. However, the increasingly globally connected world necessarily means that we must also engage with the international community.

We seek to learn from how others are promoting and protecting digital rights, and also keep a watchful eye on how digital rights are being undermined in other jurisdictions as these ideas tend to be adopted by Australian governments.

If it is in the interests of Australian society to do so, we may support international efforts to enable digital rights. Similarly, we may form partnerships or alliances with like-minded organisations both locally and internationally.

EFA's Objects and Purposes

EFA's objects and purposes describe how EFA promotes and protects digital rights.

Strategic Priorities

EFA's near-term strategic priorities will vary from time to time

Long-Term Goals

1. Growing a broad-based membership.
2. Increasing awareness of digital rights.
3. Increasing protections for digital rights enshrined in law.
4. Increasing evidence of effective protection of digital rights.
5. Increasing access to beneficial, rights-preserving technologies.

Growing Membership

Progress towards this goal will be measured by:

1. The total number of members of the organisation.
2. The number of members considered 'active' as a proportion of total membership.
3. The composition of the membership compared to the composition of Australian society.
4. The proportion of members that are natural persons compared to the proportion of organisational members.

Total Members

We seek to grow the total number of members of the organisation until every Australian who is eligible to join is a member of EFA.

Active Members

We seek to have at least 10% of the membership of EFA considered 'active'.

Membership Composition

We seek a membership whose composition mirrors that of Australian society, as determined by data from the Australian Bureau of Statistics. For example, our proportion of female members should be the same as that of Australia overall.

There may be some challenges with accurately determining membership composition due to our desire to respect our members' privacy; some may not wish to disclose aspects of their identity to us, and this wish must be respected. However, we should still be able to make a good-faith effort to ensure our membership reflects that of the broader society that we serve.

People and Organisations

EFA should always have vastly more individual human members than it does organisational members.

Increasing Awareness

EFA wants more people to be aware of their digital rights, and more interested in protecting and expanding them.

Progress towards this goal will be measured by:

1. The proportion of those in the community that are aware of the existence of key digital rights.
2. The proportion of those in the community that value and support the protection of those key digital rights.

For example, an annual survey of people's support for strong encryption could be used to measure the impact of awareness raising activities.

Increasing Legal Protections and Remedies

Advocacy for law reform to better protect digital rights in Australia including:

1. Enforceable Human Rights at a Commonwealth level through a statutory Bill of Rights or constitutional amendments.
2. Commonwealth Statutory Cause of Action for Serious Invasions of Privacy

Increasing Access to Beneficial, Rights-Preserving Technologies

We want more people to have access to beneficial technologies that also respect their rights.

EFA is not anti-technology. We are against technology that undermines people's rights, particularly when alternative, rights-preserving technology is available.

Progress towards this goal will be measured by:

1. An increase in the number of rights-preserving technologies that are available to consumers.
2. A move away from rights-destroying technologies to those that preserve rights.
3. Increasing customer preference for rights-preserving technologies over those that do not respect consumer and human rights.

Short-Term Priorities

1. Building community awareness and support for digital rights.
2. Reconstitute as a national organisation.

Building Community Awareness

EFA will continue its work at grass-roots level to work through the community to build awareness and support for digital rights. We seek a broad base of support for our mission and

activities, which means connecting with individual people and making digital rights relevant to their everyday lives.

EFA will work to enable local communities to help themselves to increase awareness of digital rights.

National Organisation

While EFA has a national presence and deals with issues that affect all of Australia, it is currently structured as a state-based association incorporated in South Australia. The requirements of a state-based incorporated association have, on several occasions, hampered EFA's administration. While the structure was once appropriate, it is no longer the case.

EFA should revisit its firm structure and seek a national organisational structure that would better suit its national operations.

What Not To Do

We have already determined that there are some things that EFA will not do. These decisions can be revisited if circumstances change sufficiently to warrant a new decision.

Merging With Other Organisations

Occasionally the idea of merging with other organisations is floated.

At this time we have decided that a merger with another digital rights organisation does not support EFA's strategy.

As a member-based organisation, we operate in a different way to other digital rights organisations that, while they may have members, are not centred on members in the way that EFA is. Our strategic goal to grow our membership and work through them to enable digital rights makes this aspect of EFA incompatible with other organisations' strategies.

EFA has a well-recognised brand, and is the oldest digital rights organisation in Australia. This affords us some ability to differentiate ourselves from other organisations. For good or ill, the different rights organisations in Australia are perceived in different ways by those we would seek to influence, and these differences can be beneficial. As a separate EFA brand we are able to operate in ways that we would not be able to if we combined with other organisations.

Acquisitions

We do not currently have the funds to acquire another organisation.

Our goal of enabling others suits partnering rather than acquiring, and we would encourage other groups to remain independent rather than seek to be acquired by EFA.

If, in future, EFA were to develop sufficient operational skill that economies of scale would benefit from acquiring other organisations, this is something that EFA should consider at some point in the future.

The criteria for acquiring other organisations has not yet been developed, and they should be so determined before acquisitions are attempted.

Appendix 1: Human Rights in Digital Context

Article 1 and 2 are about all humans being equal, and being equally entitled to rights and freedoms. In the digital realm, this means that everyone should have equal access to beneficial technologies, and be equally protected from their harmful effects. In some cases this means equality of access, and in others it means equality of outcome.

Article 3 refers to the right to life, liberty, and security of person. In the digital realm, this involves freedom from oppression by others (liberty) through the use of digital technologies, and being entitled to keep their information. Security in the modern era necessarily means having access to strong encryption that cannot be arbitrarily broken by other parties.

Article 6 is about being recognised as a person before the law. This has implications for digital identification technologies, especially when combined with equality of access.

If governments or corporations move to using digital identification mechanisms in order to recognise people, then such mechanisms must be made available without discrimination. This is particularly challenging when, for example, \$1000 smartphones using wireless networks become the de facto mechanism for delivery of digital ID methods. If people are too poor to afford the expensive smartphones (particularly recent, secure models) or live in remote areas without wireless networks, then the equal right to being recognised is compromised.

Article 12 says that

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

In the digital realm, this necessarily involves the right to secure communications using strong encryption that cannot be arbitrarily interfered with. Article 12 also refers to protection against arbitrary attacks on one’s honour and reputation. This is particularly relevant in the era of social media trolling and abuse of minorities.

There is a subtle interaction here between freedom of speech and freedom from arbitrary abuse, particularly in the era of social media trolling and abuse. The paradox of tolerance comes into play, where if all forms of speech are tolerated, powerful bullies can exclude those with less power from speaking.

We see this with online tactics such as brigading, and sealioning, but we also see it with private company censorship of sex workers (such as Tumblr banning ‘female presenting nipples’) and with de-platforming.

This is a complex and evolving area.

Article 17 relates to property rights, which in the digital realm becomes complex as information is not destroyed when it is shared with others, but often the language of ‘deprivation’ is used

when speaking of copyright law. “Theft” is an inaccurate way to refer to copyright infringement, but is in common use.

Article 19 refers to freedom of opinion and expression, which interacts with Article 12 as discussed above. The paradox of tolerance comes into play, in which abuse of others in order to deprive them of freedom of opinion and expression is given the same standing as the opinions that are being oppressed.

Article 20 refers to freedom of peaceful assembly and association, which in the digital realm means participation in online groups.

Article 21 (2) refers to equal access to public services, which in the digital realm means access to online services. As discussed above, this becomes fraught when the technology required to access the public service (such as smartphones and the Internet) are not equally available to all.

Article 21 (3) refers to elections, which means any electronic voting mechanisms fall under the auspices of digital rights. A right to a “secret vote or equivalent voting procedure” is particularly important when analysing the effect of specific e-voting systems which often compromise secrecy and universal suffrage due to security flaws.

Article 22 invokes with economic, social, and cultural rights, which includes digital works.

Article 24 invokes the right to rest and leisure, which interacts with digital surveillance and “always on” systems that employers use to attempt to control or restrict workers’ leisure time.

Article 26 invokes the right to education, which includes education in digital literacy and the ability to use the technologies of modern society.

Article 27 (1) invokes a right to freely participate in cultural life, including the arts and sharing in the scientific advancements and their benefits. This includes digital works and advances in digital technologies.

Article 27 (2) invokes a right to protection of moral and material interests resulting from any scientific, literary or artistic production of which one is the author. This includes digital property rights such as copyright and patents.

Article 29 describes how some limitations on the exercise of rights and freedoms are necessary, but

solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Determining what due recognition and respect for the rights and freedoms of others entails, and what are the just requirements of morality, public order and the general welfare is complex and difficult, and forms the core of EFA’s policy work.