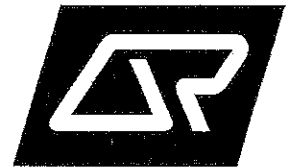


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Dr David Solomon AM
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Dear Dr Solomon

GOC RESPONSE TO DISCUSSION PAPER

Thank you for your letter of 12 March 2008 to QR Limited's CEO, Mr Lance Hockridge, inviting a contribution to your enquiry into Freedom of Information Review in Queensland.

From the outset I advise that QR Limited (QR) accepts that the community should be kept informed of its operations in general terms and that members of the public should have access to information held by QR Limited in relation to their personal affairs. On this basis the then Minister for Transport and Main Roads was given an undertaking in 2002 that QR would allow people documentation relating to their personal affairs. However, as QR operates in a competitive environment with private sector transport organisations it is essential that it has the benefit of exemptions such as Section 11A of the Freedom of Information Act (FOI Act).

QR does not have the volume of applications that some Government Departments receive. QR receives only between 120 and 150 applications a year. Of these applications the majority would be seeking access to personal affairs documentation from current or former employees, or their next of kin as well as a small number from members of the public.

The following comments are offered on the specific issues that are raised in respect of GOC's in your discussion paper.

Should Government Owned Corporations (however, constituted) be exempt from provisions of the Act covering agencies and, if so, to what extent?

QR operates nationally in competition with all modes of private sector transport operations. It is therefore essential that QR is able to compete "on a level playing field" and has an exemption, such as Section 11(A) of the FOI Act. Having said this QR acknowledges that it is owned by government and accepts that it should not be completely exempt from the FOI Act. Being mindful of this, QR does not use the exemption provision lightly and, as mentioned previously, allows access to personal affairs documentation and has procedures for dealing with applications for access to other documents. Each application is treated on its merits.

QR does not have any regulatory functions and does not currently have any CSO's. Any government funding which it receives is paid under commercial contracts QR has entered into with Government. QR considers that any scrutiny of such contracts should occur through the Government Department which is responsible for managing the contracts.

In recent years QR has acquired various companies which are incorporated under the Corporations Act. QR contends that it would be inappropriate that these companies become subject to the FOI Act simply because they are now owned by QR which in turn is owned by Government.

If world's best practice in FOI law is that FOI should extend to "any body that is exercising government functions" should any attempt be made to define what are "government functions" at a time when responsibility for many such functions is being devolved to the private sector or GOC?

In Australia railways were traditionally established by Government and their activities have therefore been regarded as part of government functions. QR is now the only government owned freight railway in Australia and competes with companies such as Pacific National, SCT and Genesee and Wyoming as well as several small niche railway operators. In Pacific National's case, this competition includes operations in Queensland. There are also various private operators of passenger railways including Connex which operates the Melbourne commuter services and Great Southern Railways which operates various long-distance services.

QR acknowledged that there are various functions that may be considered properly to be government functions that have now been outsourced and that it can be argued that these functions should continue to be subject to the FOI Act. QR contends however that this is not the case with railways.

It is considered that any attempt to define government functions would be difficult given that as in the case of railways, the nature of these functions change from time to time. QR considers that the current provisions which allow government to exempt specific activities of a GOC is an effective way for Government to ensure that any government functions carried on by GOC's are subject to the FOI Act.

Should people be able to access their personal information held by organisations like GOC's that are ultimately controlled by government and, if so, to what extent?

As noted at the outset, QR accepts that members of the public should have access to information held by QR in relation to their personal affairs. Given the nature of its operations QR holds little of this type of information. QR and its various subsidiaries are subject to the Commonwealth Privacy Act which contains certain rights regarding access to and amendment of personal information.

I trust that this response is of help in your deliberations. QR officers would be happy to meet with you should you wish to discuss any of these issues.

Yours sincerely



Stephen Cantwell
Acting Chief Executive Officer

31 March 2008