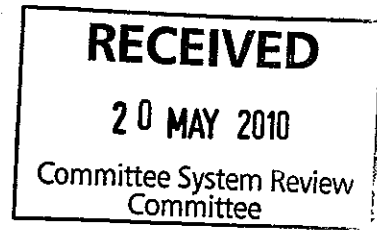


Sub #30



11-1

**Systematics**



**Submission**

**Committee System Review Committee**

Parliament House

George Street

Brisbane

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19 May 2010

## **Introduction**

The Review of the Parliamentary Committee System Committee (the **Committee**) is to conduct an inquiry and report on how the Parliamentary oversight of legislation could be enhanced and how the existing Parliamentary Committee system could be strengthened to enhance accountability.

Amongst other issues, in undertaking this inquiry, the Committee is to consider “timely and cost effective ways by which Queensland Parliamentary Committees can more effectively evaluate and examine legislative proposals”.

This Submission is made by Ian Chivers, Director and Chief Executive of Systematics Pty Ltd (**Systematics**). The Submission addresses the ways in which available technology can reduce the time and cost of Queensland Parliamentary Committee process and enable enhanced evaluation and examination of legislative proposals.

## **Submission Abstract**

The Submission asserts that, for more than 15 years, Systematics has applied evidence presentation and management technology in lieu of traditional, paper-based process to support and enhance the processes of Courts, Inquiries and other hearings.

The Submission cites published papers and public observations of Judicial Officers, academics, senior legal professionals and others that the applied technology very significantly accelerates the hearing of legal proceedings, delivering a better quality of justice in conjunction with substantial cost savings.

The Submission asserts that the processes and objectives relevant to sharing, examining, analysing and evaluating evidence by legal practitioners, witnesses and Judges in the course of a legal hearing are directly analogous to the processes and objectives relevant to sharing, examining, analysing and evaluating legislative proposals by participants to Parliamentary Committee proceedings and that the proposed technology will deliver equally quantifiable benefits when applied to Parliamentary Committee process.

Accordingly, the Submission suggests that the Committee should consider application of Systematics’ evidence presentation and management technology to Queensland Parliamentary Committee process in the expectation that it will substantially reduce the time and cost of such process and allow increased effectiveness in the evaluation and examination of legislative proposals.

## **Credentials**

Systematics Pty Ltd was established 1978 and has throughout its existence focused its business on information requirements and technological opportunities associated with legal and related professional process and practice. It is a Queensland based organisation, servicing a client base located throughout Australasia, the United Kingdom, North America and Asia.

The company is credited with many significant advances in evidence management technology addressing courtroom process and preparation for litigation.

Since 1993, Systematics has delivered approximately 30 “technology courts”, commencing with the Kalajzich Inquiry in NSW.

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Systematics conducts ongoing Research and Development into Courtroom and Litigation preparation technologies and has secured patent protection for various inventive developments in these fields.

Ian Chivers studied Law and Computer Science between 1973 and 1980 and was admitted to practise as a Solicitor in 1978. He became Chief Executive of Systematics in 1989.

**Public observations addressing evidence management technology experience in courts**

There is a significant body of published independent commentary advocating the universal application of technology to enhance evidence presentation in the course of the legal hearing process and supporting the proposition that the proper application of technology reduces hearing time, reduces cost and enhances the quality of Justice delivered. This Submission draws together the commentary of Judicial Officers, academics, legal professionals and others in support of the proposition. The highlights of commentary in historical sequence are:

- In 1994, following the *Kalajzich Inquiry*, Justice John Slattery AO, QC, noted that

*"The course of the hearing was greatly accelerated... I would estimate in the vicinity of 25 to 30 per cent with proportional cost savings"*<sup>1</sup>

- In 1998, reflecting on his experience in *Re Estate Mortgage*, the Hon. Justice Tim Smith of the Supreme Court of Victoria suggested that the technology had delivered

*"A better 'Quality of Justice', by: increasing the capacity to better examine the full range of evidence, allowing more witnesses and more exhibits, in less time, and allowing more access to the Courts... The Plaintiff's solicitors estimated saving of 30% to 40% in hearing time in the first eighty days (\$3,000,000 in legal costs)"*<sup>2</sup>

- In relation to the same case, the Law Reform Committee of Victoria reported that

*"Those involved in the case have estimated that using the technology reduced court time, and therefore costs, by almost 50 per cent"*<sup>3</sup>

- In 2002, Justice Bleby of the Supreme Court of South Australia recorded his reactions as trial Judge to the electronically managed matter of *Re Southern Equities (Bond Corporation)* as follows:

*"I came to the system with some trepidation in my technologically impaired state... I soon found that the system had been developed to such a high standard of user friendliness that its use did not detract from my concentration on the trial... the*

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<sup>1</sup> Slattery AO QC, Justice John, "The Kalajzich Inquiry: Harnessing Technology" (1994) 6(11) NSW Judicial Officers Bulletin 81

<sup>2</sup> Smith, The Hon Justice T, "The Estate Mortgage Court System" AIJA Technology for Justice Conference, 23<sup>rd</sup> March 1998 at <http://www.aija.org.au/conference98/papers/estate/index.htm> viewed 19 May 2010

<sup>3</sup> Parliament of Victoria, Law Reform Committee, "Technology and the Law", May 1999 at <http://www.parliament.vic.gov.au/lawreform/inquiries/Technology%20and%20the%20Law/final%20report.pdf> – Chapter10 viewed 19 May 2010

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*actual trial time saved by not moving, retrieving and returning paper is at least 25%... it was a pleasure to use... I have since returned to the comparative frustration of conventional techniques of using hardcopy documents and transcript*<sup>4</sup>

- In 2008, New Zealand *Law Talk* reported the following time saving in the High Court matter of *Re W –v- Crown*:

*“The saving in court time saw last year’s first e-litigation case completed in 32.5 days instead of the estimated 45. Counsel and Judge (Miller J) put this saving down to the use of System@Law”<sup>5</sup> (Systematics’ evidence presentation software)*

- Also in 2008, Mr Royden Hindle, Chairman, Human Rights Tribunal, Wellington and Ms Cheryl Gwyn, Deputy Solicitor General, New Zealand, made the observation in transcript of the matter *Re CPAG* that the “technology applied reduced hearing of the evidence from 35 days to 9 days”.
- In 2009, Justice Thomas Grainger of the Superior Court of Ontario, expressed the view that it should be possible to “convert any courtroom into an electronic courtroom for less than \$1000”, that typically, technology in the courtroom should “save 1 day in a 3 day trial” and that in the 2007 matter of *Re GasTOPS –v- MxI*, the use of technology had resulted in “50 Trial days saved”.<sup>6</sup>
- In early 2010, after settlement of the High Court of New Zealand matter of *Carter Holt Harvey –v- Genesis Energy and Rolls Royce* after 158 sitting days, Justice Mark Cooper observed that the presence of evidence presentation technology accelerated the trial by “at least 50%, most probably significantly more”.

Applying very conservative assumptions as to the number of practitioners involved in the matter and their daily rates of charge, use of the technology effected a notional saving of NZ\$6,000,000, reflecting a return on investment of more than 40:1.<sup>7</sup>

Current deployments of Systematics’ courtroom evidence presentation and management technology in which participants anecdotally confirm the acceleration of proceedings, enhanced quality of Justice and delivery of cost savings include:

- *The Pennington Inquiry* – Commissioned by the Welsh Parliament into child deaths from eColi food poisoning in South Wales
- *Westpac –v- Internal Revenue Department* before Justice Harrison of the High Court of New Zealand in Auckland

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<sup>4</sup> Bleby, Justice D, “The First Electronic Trial, South Australian Supreme Court”, paper prepared at the request of the Historical Collections Librarian of the Supreme Court Library for the purpose of recording some of the Judge’s reactions as trial Judge to the electronic aspects of the trial, October 2002

<sup>5</sup> New Zealand Law Talk, July 2008

<sup>6</sup> Grainger, Justice Thomas, “Going Electronic: Is Justice Denied by a Failure to Adopt Technology in the Courtroom” CT Summation Webinar 5 May 2009

<sup>7</sup> For further discussion of the application of technology to this case, see ‘Geek Court Saves Clients Millions’, The National Business Review, 16 April, 2010.

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- *The Penrose Inquiry* – Commissioned by the Scottish Parliament into Hepatitis C/HIV acquired infection from National Health Service treatment with blood and blood products in Scotland
- *The City of Mississauga Inquiry* - currently being heard in Toronto.

**Unique features attaching to Systematics' evidence presentation technology**

Central to any electronic evidence presentation environment is the concept of electronic delivery of materials in lieu of hardcopy delivery. It is clearly established that electronic presentation will, of and by itself, deliver time savings to participants by virtue of the accelerated speed with which an appropriately formatted electronic materials can be 'published' to participants.

However, Systematics' evidence presentation software environment (*Systematics Court*) extends this concept benefit considerably. *Systematics Court*:

- provides for the publication of a uniform, public version of a document for review by all participants to the process and simultaneously allows for the viewing and mark up of a 'private' edition of the document, unique to each participant, containing personalised annotations and secured against access by any other participant.
- enables each participant to be provided with appropriate permissions based on their user group, enabling, or prohibiting as the case may be, entry or editing of data relevant to the document.
- is designed for operation by the participants themselves, without requiring the services or overhead of an independent operator. In all recent and current implementations, the software has been successfully utilised in this manner.
- is a low cost environment. It can be deployed rapidly and requires only Internet connectivity (which may be wireless). A number of recent hearings have been conducted in rooms with no relevant pre-existing technology. For example, Auckland Court 1, the venue for *Westpac -v- Internal Revenue* is a heritage building more than 150 years old.

As indicated at the outset of this Submission, it is our view that the needs of participants to the Parliamentary Committee process are highly analogous to the needs of participants in a legal hearing process. In both instances participants need:

- secure and rapid access to relevant materials
- the ability to very quickly disseminate public versions of the documents to all participants; and
- the facility to analyse, mark up and manage private editions of those materials in response to the needs of parties representing a range of different views in a way that increases the effectiveness of the review process.

The *Systematics Court* technology environment uniquely meets these objectives without any consequential compromise.

## **Conclusion**

Evidence presentation technology is a proven measure to “reduce the cost of delivering Justice” and to “reduce the length and complexity of litigation and improve (the) efficiency” of the delivery of Justice substantially. The proceedings of Parliamentary Committees are highly analogous to a Courtroom hearing process.

Systematics’ evidence presentation technology (*Systematics Court*) delivers:

- “a better Quality of Justice ... increasing the capacity to better examine the full range of evidence” (Smith J: AIJA Published paper *re Estate Mortgage* 1998 to Cooper J – *Carter Holt Harvey –v- Genesis Energy and Rolls Royce* 2009)
- substantially accelerated hearings and proportional cost savings (Slattery J Published paper *re Kalajzich* 1994 to Cooper J – *Carter Holt Harvey –v- Genesis Energy and Rolls Royce* 2009)
- personalised data, Private Editions of documents capturing the positions of parties representing a range of different views and participant operational control (“We didn’t think personalization of evidence would be possible.” *Professor Frederic Lederer College of William and Mary Virginia* 2009)

These benefits are possible without making operational demands on other Parliamentary staff or requiring specialised technical infrastructure. The cost of deployment and operation to achieve these outcomes can be very low (“convert any courtroom into an electronic courtroom for less than \$1000” *Justice Grainger – Superior Court of Ontario “Going Electronic: Is Justice Denied by a Failure to Adopt Technology in the Courtroom” CT Summation Webinar* 5 May, 2009)

These outcomes are equally desirable to the Parliamentary Committee process.

It is suggested that the Committee should observe the commentaries cited and report the capacity of evidence presentation and management technology to substantially reduce the time and cost of Queensland Parliamentary Committee process and to enable enhanced evaluation and examination of legislative proposals. It is submitted that application of such technology will enhance the quality of the process and outcomes by delivering flexible and effective access to materials and that the dual delivery of public and private editions of documents will increase the capability of participants to better examine the full range of evidence. *Systematics Court* is a software environment that represents, internationally, best-of-breed technology of this nature.

I would be pleased to expand on any aspect of the Submission as necessary.

Thank you for the opportunity to make this Submission.

**Ian Chivers – 19 May 2010**

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