**SUBMISSION TO THE LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE, LEGISLATIVE ASSEMBLY OF QUEENSLAND**

Review of the Freedom of Information Act 1992 (Qld)

Queensland Newspapers welcomes the opportunity to make this submission; freedom of information is an essential component of our democratic process. However, as the Information Commissioner reminded Parliament in his latest annual report, changes to the 1992 legislation have effected 'a significant retreat from the principles of openness, accountability and responsibility which the FOI Act was intended to enshrine'.

Queensland Newspapers strongly supports the public's right of access to information which is of public concern in the terms described by the then Attorney-General in his second reading speech of 5 December 1991:

'The assumption that information held by Government is secret unless there are reasons to the contrary is to be replaced by the assumption that information held by Government is available unless there are reasons to the contrary. The perception that Government is something remote from the citizen and entitled to keep its processes secret will be replaced by the perception that Government is merely the agent of its citizens, keeping no secrets other than those necessary to perform its functions as an agent.'

The Act should apply to all persons or bodies funded by government and established for a public purpose. A public body or agency opposing disclosure should not only establish that information falls within an exempt category but also that its disclosure would not be in the public interest. Need for confidentiality should be protected by specific and narrowly defined exemptions of categories of documents or information held on a computer base rather than by the exemption of particular persons or entities.

Queensland Newspapers strenuously opposes exemptions by regulation [s 11 (1) (a)] and submits that any and all exemptions should be by legislation.

It submits [s 11 (1) (b)] should be amended to ensure that the workings and administration of the Parliament are open to scrutiny, excepting the dealings between a member of the Legislative Assembly and constituents, a committee of the Legislative Assembly, and a parliamentary commission of inquiry. Accountability must depend, ultimately, upon the public's ability to discover details of what their politicians and public officials are doing and nowhere should this accountability be more significant than in the operation of the Parliament itself.

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Queensland Newspapers has argued consistently for repeal of amendments to s 36 and s 37 which radically expanded exemptions to give retrospective, blanket secrecy to material submitted or prepared for submission to Cabinet or associated with Cabinet processes. It acknowledges there are grounds for exempting some sensitive Cabinet documents from FOI disclosure but draws attention to the observation of the Information Commissioner that in their present form, s 36 and s 37 allow scope for the `manufacture` of an exemption claim and thereby the defeat of one of the chief objects of the FOI Act, accountability of government.

Similarly, the newspaper organisation has reflected strong public opinion in opposing the exemption, by regulation, of aggregate student data and student assessment programs and the inclusion of provisions {s 11A and s 11B} which exclude the application of the Act to documents relating to the commercial activities of government and local government-owned corporations. Queensland Newspapers is concerned at the increasing reliance of `commercial in-confidence` claims for exemption relating to GOCs and associated entities which rely on substantial public funding. It submits that in order to justify non-disclosure, it must be established that disclosure of the information requested would carry a high probability of causing substantial damage to a nominated public interest.

Matter relating to investigations by the Parliamentary Commissioner and Auditor-General should be open to FOI disclosure unless disclosure would, on balance, not be in the public interest or if disclosure was prohibited by the Financial Administration and Audit Act 1977, section 92.

The resource implications, including costs, for agencies subject to the FOI Act should be regarded as incidental and necessary to the adequate functioning of the legislation. A maximum charge per document should apply in respect of access to documents including information downloaded from electronic and non-paper formats.

Queensland Newspapers is concerned by delays in access to material within the scope of the Act. It submits that any necessary consultation with people named in documents which are the subject of FOI applications should occur within the 30-day period for response.

A handwritten signature in black ink, appearing to read 'Terry Quinn', with a stylized flourish at the end.

Signed by: Terry Quinn, Managing Editor, The Courier-Mail

for: Greg Chamberlin, Group Editorial Manager, Queensland Newspapers Pty Ltd

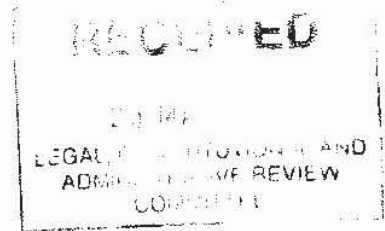
14 May 1999



The Courier-Mail

24 May 1999

Mr G Fenlon MLA
Chair
Legal, Constitutional and Administrative
Review Committee
Legislative Assembly of Queensland
Parliament House
George Street
BRISBANE QLD 4000



Dear Mr Fenlon

I refer to the submission made by Queensland Newspapers concerning the review your committee is undertaking into Freedom of Information legislation.

There is one further matter of considerable importance we wish to raise.

At the moment, local government and other governmental institutions are using s 44(1) and 256(1)(a) to deny the release of information concerning salary packages of elected officials and senior employees. Parliament, of course, does not prevent the public from knowing the salaries and allowances paid to MPs and its senior officials, and most public service salaries are well known (indeed, they are advertised when there are job vacancies). The principle is clear enough: that the public is entitled to know the salaries and allowances of those people who are employed in the name of the public, and whose salaries etc are paid from the public purse.

We would therefore propose that these sections of the FOI Act should be amended to make it clear that they do not prevent the disclosure of salaries, remuneration packages, superannuation packages, expense accounts, and other allowances paid to elected and appointed senior officials of government agencies and local government authorities.

Yours sincerely

Terry Quinn
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