



TRANSPARENCY INTERNATIONAL AUSTRALIA

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28 February 2013

Dr Allan Hawke AC
c/-Mr Richard Glenn
Assistant Secretary
Business and Information Law Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Dear Dr Hawke

FOI Review

I write on behalf of the Australian Chapter of TI to provide a short submission as to the critical importance of ensuring that the scope and effectiveness of our FOI laws is adequate to enable the anti-corruption function of government to be properly discharged. I apologise for lateness in doing so.

We are one of over 100 Chapters of TI, an independent body with a status and recognition in relation to anti-corruption matters, growing steadily internationally since it was first established 20 years ago. TI and its functions can be found at www.transparency.org. Details of our Chapter can be found at www.transparency.org.au

A very important effect of Freedom of Information laws is to bring corrupt conduct to attention. We submit the strong public interest in disclosure of information to this end is obvious and should be central to decision making on this subject.

Those affected by corrupt conduct, Members of Parliament and members of the media must have effective access to information. You will appreciate that most of the complex scandals over recent years have been brought to attention by journalists

The main gaps or weaknesses in the present Commonwealth Freedom of Information Act (the Act) that presently indicate this public interest is not adequately served include:

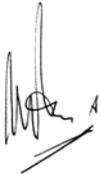
- **Scope:** Many public sector bodies and bodies that carry out public functions are not subject to the Act. Nor are bodies in receipt of significant public funding at Federal level. We do not understand why all government agencies and government owned or largely government funded corporations or entities are not subject to the Act and submit that your review should address the point.
- **Recognition:** Neither the Act nor available guidance puts the anti-corruption element at the forefront of consideration by a decision maker. While section 11B of the Act lists as a relevant public interest that disclosure would promote effective oversight of public expenditure, there is no explicit recognition of the public interest in limiting or exposing corruption. By contrast the Queensland Right to Information Act. Schedule 4 at least includes as a factor favouring disclosure that
"Disclosure of the information could reasonably be expected to reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct."

- **Absolute exemptions:** Some exemptions in the Act are absolute and do not require consideration of any competing public interest in disclosure, including the public interest in exposure of corruption.

We submit that these gaps and weaknesses call for remedy in order to help improve standards and facilitate action in preventing and rooting out corruption at federal level.

There certainly should not be any weakening of safeguards because of administrative inconvenience or lack of efficiency.

Yours faithfully



Michael Ahrens
Executive Director
Transparency International Australia