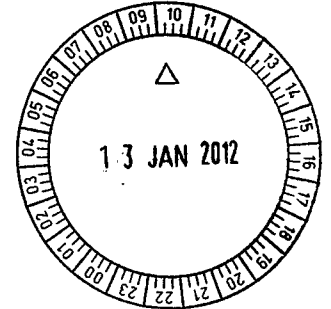




Our Ref: 07/005/01

12 January 2012

Hon. Adele Farina MLC
Chair
Standing Committee on Uniform Legislation
and Statutes Review
GPO Box A11
PERTH WA 6837



Dear Ms Farina

INQUIRY INTO BUSINESS NAMES (COMMONWEALTH POWERS) BILL 2011

I refer to your letter dated 19 December 2011 inviting my written submissions for the purposes of the above-mentioned inquiry.

My submission to the Committee is set out in this letter.

I do not have any objection to the Bill insofar it impacts the operation of the *Freedom of Information Act 1992* ('the FOI Act') and public access to government documents.

Currently, information from the Western Australia business names register is publicly available under the *Business Names Act 1962* (WA) upon payment of a fee. The access procedures under the FOI Act do not apply to documents that are already available, whether for free or on payment of a fee. However, the access provisions in the FOI Act do apply to documents held by the administrator of the register, the Department of Commerce, which are not otherwise publicly available. This is consistent with making the Department accountable for the administration of the business names register.

I understand that under the Bill the Western Australia business names register will be replaced by a new national business names register operated by the Australian Securities and Investments Commission (ASIC). Information from the national business names register will continue to be available to persons under the proposed Act, upon request and payment of a fee. ASIC will also be required to make certain information publicly available on the internet or otherwise free of charge. In addition, I understand that the public will be able to apply to ASIC under the *Commonwealth Freedom of Information Act 1982* to access documents that are not available under the *Business Names Registration Act 2011* (Commonwealth) as adopted by the proposed Act. This will ensure that FOI legislation remains an effective tool in maintaining transparency and accountability of ASIC's administration of the national business names register.

I note that this scheme is part of the Council of Australian Governments (COAG) regulatory reform agenda. In my letter to you dated 14 December 2011, I expressed concerns about the potential proliferation of oversight laws and bodies under national harmonisation schemes being developed under the COAG regulatory reform agenda. However, as this scheme effectively involves the transfer of functions from the State to the Commonwealth, my concerns do not apply in this case.

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I have no objection to my submission being made public.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Bluemmel', with a long horizontal flourish extending to the right.

Sven Bluemmel
INFORMATION COMMISSIONER