



LEGISLATIVE ASSEMBLY OF QUEENSLAND

**PARLIAMENTARY COMMITTEE FOR
ELECTORAL AND ADMINISTRATIVE REVIEW**

REPORT ON

**Review of
Government Media and Information Services**

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**REPORTS OF THE PARLIAMENTARY COMMITTEE
FOR ELECTORAL AND ADMINISTRATIVE REVIEW**

	DATE
1. Whistleblowers' Protection - Interim Measures	7 June 1990
2. Review of Guidelines for the Declaration of Registrable Interests of Elected Representatives of the Parliament of Queensland	2 October 1990
3. Matters Affecting the 1991 Local Authority Elections arising out of a Report of the Electoral and Administrative Review commission on the Local Authority Electoral System of Queensland	23 October 1990
4. Joint Electoral Roll	30 November 1990
5. Queensland Legislative Assembly Electoral System	26 February 1991
6. Freedom of Information for Queensland	18 April 1991
7. Judicial Review of Administrative Decisions and Actions	14 June 1991
8. Public Assembly Law	21 June 1991
9. Local Authority Electoral System - Remaining Matters	25 June 1991
10. Office of Parliamentary Counsel	18 July 1991
11. Public Sector Auditing	3 December 1991
12. Review of <i>Elections Act 1983-1991</i>	18 March 1992
13. External Boundaries of Local Authorities	19 March 1992
14. Review of Information and Resource Needs of Non-Government Members of the Queensland Legislative Assembly	19 March 1992
15. Whistleblowers' Protection	8 April 1992
16. Review of the <i>Electoral and Administrative Review Act</i>	9 July 1992
17. Archives Legislation	27 November 1992
18. Codes of Conduct for Public Officials	21 May 1993
19. Review of Parliamentary Committees	15 October 1993
20. Public Registration of Political Donations, Public Funding of Election Campaigns and Related Issues	2 December 1993
21. Review of the Independence of the Attorney-General	21 December 1993

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ELECTORAL AND ADMINISTRATIVE REVIEW**

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CHAIRMAN'S SUMMARY

Fitzgerald recognised that Government media units could be used to control and manipulate the information obtained by the media and disseminated to the public. The Committee agrees with Fitzgerald that "there is no legitimate justification for taxpayer's money to be spent on politically motivated propaganda" (Fitzgerald report 1989, p.142).

The Committee has supported the broad thrust of EARC's recommendations aimed at reducing the likelihood of the dissemination of such 'politically motivated propaganda'. The Committee has also endorsed EARC's recommendations to open up more avenues for journalists to obtain information about government activities so as to reduce reliance on government media releases.

Whilst EARC recommending freeing up access to information it also recommended that the *Criminal Code* be amended to place an obligation on former public officials not to disclose confidential information acquired during their term of office. The Committee considered that EARC's analysis of this complex issue was inadequate and recommended that the Attorney-General conduct a comprehensive review of any requirement on former public officials not to disclose information acquired during their term of office. In particular, the Committee questioned how long any secrecy obligations should remain and to whom they should apply.

The Committee has also generally endorsed EARC's guidelines for government publications and information campaigns. The fundamental principles of accuracy, honesty, fairness and lack of Party political content were endorsed so as to ensure that information rather than propaganda is provided in government publications and advertising campaigns.

The implementation of these guidelines should not however preclude the use of creative advertising techniques that are required to communicate and compete successfully with others also trying to get their message across to the public.

The Committee has also endorsed EARC's measures to increase financial accountability of the operations of departmental and ministerial media units both through more comprehensive financial record keeping and through scrutiny by Parliamentary Committees. These measures will increase the ability of the public to assess the amount of taxpayers money that is being spent on government media and information related activities.

The third and most difficult area that EARC addressed in its attempts to reduce government manipulation of information was that of news management.

The Committee welcomed the thrust of EARC's recommendations which were intended to reduce the likelihood of certain media outlets or journalists being unfairly excluded from access to government information. However, the Committee considered that some of EARC's recommendations were unrealistic and even naive. For example, EARC made no distinction between media conferences and briefings. The Committee considered that media conferences should be open to all journalists that want to attend however a Minister must be able to reserve the right to invite only those journalists considered appropriate to

briefings on particular topics. Indeed, there is no way of policing any alternative arrangements.

The Committee did however endorse EARC's view that it was improper for the government to withhold information requested by one media outlet when it was available to another.

The Committee also endorsed EARC's recommendation that ministerial and departmental media advisers should be subject to an appropriate code of conduct. It was considered that the AJA Code of Ethics for journalists was not appropriate for government media advisers whose role is necessarily partisan. The Committee urged Media, Entertainment and Arts Alliance to consider developing a specific code for government media advisers.

The Committee found the question of journalists' use of the government aircraft a difficult one. EARC recommended that journalists be charged at commercial rates when accompanying Ministers on the government aircraft. The Committee considered that the real issue was one of ethics rather than cost to taxpayers, since journalists are only offered free travel if there are spare seats on the government aircraft.

The Committee therefore proposed that the Aviation Service keep a public record of all passengers when the media accompany Ministers. Further, that journalists should acknowledge free air travel in any subsequent story since the AJA Code of Ethics already requires disclosure of gifts or considerations that may influence the professional duties of journalists.

The Committee also recommended that the Auditor-General monitor entertainment costs and other costs associated with liaison activities with media personnel at public expense. The raising of ethical standards on the part of government officials and journalists is however the most effective means of avoiding any impropriety associated with Ministers entertaining journalists or providing them with free travel in the government aircraft.

Fitzgerald recognised that no government could succeed in disseminating propaganda without a compliant media. He argued that as far as the media was concerned 'fitting in with the system and associating with and developing a mutual independence with those in power have had obvious advantages' (Fitzgerald 1989 p.141).

During its review EARC was urged to widen its investigation to include a review of the media itself. EARC acknowledged these concerns but was limited by its Act to reviewing 'units of public administration'.

In so far as EARC was only able to make recommendations directed at government administration its review was unable to comprehensively address questions of news management and government-media relations.

This Committee was not so constrained and has been able to consider a number of issues of concern in Queensland including the concentration of media ownership, regulation of the industry, ethical standards and legal protection for journalists in certain circumstances.

The Committee did not recommend a separate inquiry into the media in Queensland but has nevertheless made a number of observations which it hopes will increase the

accountability of the media so as to strengthen community confidence in its role as the Fourth Estate.

In any event, government media relationships cannot be put on a more ethical and professional footing unless changes are made by both parties. The Committee hopes that by its examination of broader media industry issues it has been able to provide a more balanced perspective on government media relationships, an option unfortunately not available to EARC.

An important element of the Committee's suggested regime is the professional and ethical development of all personnel in the media industry. The Committee considered that all Queensland news media organisations should develop and publish a professional practice policy. Further, they should provide training for their staff in such issues as the use of Freedom of Information and the laws of contempt and defamation. They should also be familiarised with the relevant legal process and the rules of evidence. The Media, Entertainment and Arts Alliance was considered to be the appropriate organisation to initiate regular ethics education and training for its members in the use of their code.

The Committee also believes that the Australian Press Council should be restructured to become an industry wide Media Council with representatives from the print and broadcast sectors, major media organisations, the journalists' union and the public. Such a Media Council would be able to address special complaints about journalistic practice and would not duplicate the work of the Australian Broadcasting Authority.

The legal issues of defamation law reform and claims for recognition of journalists' privilege to not divulge a source have attracted considerable attention recently. Much of the discussion on these issues has been linked with the need for more effective self-regulation of the profession. The Committee agreed that these issues should be linked but nevertheless noted the potential for abuse if total legal protection was afforded journalists. Whilst the Committee did not express a view on the merits of specific proposals it recommended that the Attorney-General should encourage the Standing Committee of Attorneys-General to develop a proposal on uniform shield laws.

Levy CM

Dr L A Clark MLA
Chair, Parliamentary Committee for Electoral and Administrative Review
28 April 1994

1 INTRODUCTION

1.1 The Role of the Parliamentary Committee

1.1.1 The Parliamentary Committee for Electoral and Administrative Review is an all party committee of the Legislative Assembly, established by motion on 10 November 1992 in pursuance of Part V of the *Electoral and Administrative Review Act 1989* (the Act).

1.1.2 The Act defines the Committee's functions and provides for it:

- “(a) to monitor and review the discharge of EARC's functions;*
- (b) ...;*
- (c) to examine the ... reports of the Commission and report to the Legislative Assembly on any matter appearing in or arising out of such reports”*
(s.5.8(1) Electoral and Administrative Review Act 1989).

1.2 The EARC Report

1.2.1 An Electoral and Administrative Review Commission report entitled *Report on Review of Government Media and Information Services* (the EARC report) was furnished to the Chairman of the Parliamentary Committee, Dr Lesley Clark MLA, Speaker of the Legislative Assembly, Hon Jim Fouras MLA, and the Minister (the Premier), Hon Wayne Goss MLA on 30 April 1993 and was subsequently tabled in the Legislative Assembly and ordered to be printed. The EARC report reviews the functions of Government media and information services and includes recommendations that are summarised at pages 244 to 251.

1.2.2 The Act provides that EARC's object is to report to the Chairman of the Parliamentary Committee, the Speaker of the Legislative Assembly and the responsible Minister (the Premier) with a view to achieving and maintaining:

- “(a) efficiency in the operation of the Parliament; and*
- (b) honesty, impartiality and efficiency in -*
 - (i) elections;*
 - (ii) public administration of the State;*
 - (iii) Local Authority administration”* (s.2.9(1) of the Act).

1.2.3 The Commission's functions also require it to investigate and report from time to time in relation to:

"... the whole or part of the public administration of the State, including any matters pertaining thereto specified in the Report of the Commission of Inquiry ..." (s.2.10(1)(a)(iii) of the Act).

1.3 Scope of EARC's Review

1.3.1 The Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (the Fitzgerald Report) noted that there was a legitimate need for Government Ministers, departments and instrumentalities to employ staff to help ensure the public was kept informed. But it also warned that Government media units could be used to control and manipulate the information obtained by the media and disseminated to the public:

"Although most Government-generated publicity will unavoidably and necessarily be politically advantageous, there is no legitimate justification for taxpayers' money to be spent on politically motivated propaganda" (Fitzgerald Report 1989, p.142).

1.3.2 Fitzgerald reported that the only justification for press secretaries and media units was that they lead to a community better informed about Government and departmental activity. If they failed to do this then their existence was a misuse of public funds (Fitzgerald Report 1989, p.142).

1.3.3 The Fitzgerald Report recommended that the Commission should supervise the:

"Formulation of guidelines for monitoring the costs and activities of ministerial and departmental media units and press secretaries by an all-party Parliamentary Committee" (Fitzgerald Report 1989, Recommendation 10(h) p.371).

1.3.4 Although the Fitzgerald Report referred to guidelines for scrutiny by Parliamentary Committees, the Act was less specific. It simply provided that:

"Without limiting the extent of the Commission's functions, in the discharge of its function to investigate and report in relation to the operation of the Parliament or the public administration of the State the Commission may investigate and report in relation to all or any of the matters specified in the Schedule" (s.2.10(2) of the Act).

1.3.5 The provision in the Schedule to the Act relevant to EARC's report is:

"4. Activities of Ministerial press secretaries and media sectors of units of public administration."

1.3.6 The Act also provides that the Commission is concerned only with systemic problems and not with particular instances of allegations of inefficiency, dishonesty or partiality except to the extent that such instances indicate or suggest deficiency in existing systems, principles or practices (s.2.9(2) of the Act).

1.3.7 During its review the Commission was urged to widen its investigation to include the media itself. One submission urged EARC to recommend a further inquiry:

"... I submit that EARC must acknowledge that the problem identified by Fitzgerald in the reporting of public administration goes beyond the narrow, strict black letter of its legislation regarding systems. To look properly at the system one must go beyond the role of Government media units and Mr Gorrie's allegations to look at the other factor, the other side - the media itself ..."

Accordingly, I submit it is appropriate for EARC to use its discretionary powers to recommend a further inquiry into the media generally.

I submit that the problems of news management and manipulation are part of the broader issue of the media itself and whether the institution should be accountable like the politicians, the Parliament, the Police, the judiciary and the bureaucracy. Both the Fitzgerald report and the WA Inc. Royal Commission emphasise the need for accountability and public access to information as a check on executive government.

The often heard arguments of freedom of the press are no excuse for the failure of the Queensland media in its capacity as the fourth estate" (Ort 4 January 1993, EARC File 009C/31).

1.3.8 EARC acknowledged these concerns but argued that it had no power to recommend a general review of the media in this State. The Committee accepts that EARC's jurisdiction was limited to units of public administration and did not extend to the private sector. However these limitations do not extend to this Committee as its functions are to examine the reports of the Commission and report to the Legislative Assembly on any matter appearing in or arising out of such reports (s.5.8(1) *Electoral and Administrative Review Act 1989*). The Committee intends to examine some of the issues that were beyond EARC's reach in later sections of this Report.

1.4 The Parliamentary Committee's Review Process

1.4.1 On receipt of EARC's report, the Parliamentary Committee advertised, inviting written submissions on EARC's report and recommendations. That advertisement appeared in Queensland newspapers on 22 May 1993 (a copy of that advertisement appears as Appendix A to this report). As well, the Committee wrote to many journalists, editors and academics seeking their views on EARC's Report. The Committee received 27 submissions in response. The persons who made a submission are listed in Appendix B. As a result of one of these submissions the Committee held an in camera hearing on 18 March 1994.

1.4.2 In this Report the Committee examines the procedures adopted by EARC in the preparation of its report, and assesses EARC's compliance with its statutory duties. The Committee also comments on aspects of EARC's recommendations. To assist it in this task the Committee employed Ms Julianne Schultz as a consultant. Ms Schultz was formerly Associate Professor of Journalism at the University of Technology, Sydney, specialising in journalism and research. Ms Schultz has also worked as a journalist, principally for the *Australian Financial Review* and the ABC.

1.4.3 The Committee also held an in camera hearing on 18 March 1994 with Mr Arthur Gorrie to clarify his concerns regarding EARC's compliance with its statutory duties.

2 PREPARATION OF THE EARC REPORT

2.1 EARC's Procedures

2.1.1 The Commission adopted the following procedures in the preparation of its report:

- (a) Issues Paper No.19, *Review of Government Media and Information Services* was released in March 1992 and approximately 1,000 copies were circulated to public libraries, Magistrates Courts, government instrumentalities, community organisations and members of the public.
- (b) EARC advertised its call for submissions on the Issues Paper with a closing date for submissions of 15 May 1992. Submissions received were placed on a public register, published and widely distributed. Comments in response to those submissions were invited on 22 May 1992 and continued to be accepted until the report was finalised in April 1993.
- (c) At the time of completion of its report, EARC had received 47 public submissions and comments in response. One of those submissions provided examples of what was claimed to be media manipulation by government and named several individuals involved. EARC wrote to those individuals requesting further information and a further thirty submissions were received in response. Only edited versions of these submissions were placed on EARC's public register.
- (d) EARC conducted a public seminar on 26 June 1992. The seminar was advertised in the Brisbane press. As well, all Members of the Queensland Legislative Assembly and senior public sector officials were invited. Several community organisations and academics also received invitations. The Commission received 213 registrations for the seminar.

(e) EARC engaged the services of Professor Cameron Hazlehurst of QUT to research and report on promotions, public relations and media coverage of three case studies of Queensland Government initiatives: the Seniors' Card, the 'Buy Queensland Made' campaign and the Gurulmundi Landfill. Professor Hazlehurst's report was placed on the Commission's public register in April 1993 (EARC file 009/805).

(f) EARC conducted two media studies with the help of a media monitoring organisation. The first concentrated on the collection and analysis of every article published in 83 Queensland print media outlets during the period 15 June 1992 to 12 July 1992 that mentioned a Member of the Queensland Legislative Assembly. The second study was more detailed and involved the collection of all media releases issued from five ministerial portfolios (Transport, Treasury, Premier, Administrative Services and Primary Industries) during the period 15 June 1992 to 12 July 1992 and the analysis of their subsequent treatment in the print and broadcast media.

(g) EARC staff also researched relevant legislation and literature from other jurisdictions and EARC also used its powers under s.3.2 of the Act to request

Treasury to identify departments' expenditure on information and publicity functions.

(h) Finally, EARC engaged the services of Professor Clem Lloyd of the Graduate School of Journalism, University of Wollongong, to provide expert advice on the content of the Issues Paper and the Report.

2.2 EARC's Compliance with its Statutory Duties

2.2.1 The Committee has considered whether EARC has satisfied its statutory duties:

- (a) to act independently, impartially, fairly and in the public interest (s 2.23(2)(a));
- (b) to act openly and make available to the public all submissions, objections and suggestions made to it apart from any such material which it would be contrary to the public interest or unfair to disclose (s 2.23(2)(b) and (c)); and
- (c) to include in its report its recommendations and an objective summary and comment on all considerations of which it is aware which support or oppose or otherwise pertain to its recommendations (s 2.23(2)(d)(i) and (ii)).

2.2.2 A submission, from Mr Arthur Gorrie, asserted that EARC had failed in its statutory duty to be impartial and act in the public interest:

"I submit EARC failed in its lawful duty to be impartial and to act for the public benefit and I do so on a number of grounds ... Government submissions were boldly accepted and mine and others, arguing simply that there is a need for safeguards, are rejected whenever there is conflict. There was no cross examination as occurred in the electoral and government reviews and, in line with the Government's wishes, there was no testing of evidence under Oath, as requested by me.

... it is only necessary to prove that government-media interference CAN occur ... It was up to EARC to accept the untested evidence and look at what could be done to provide safeguards. It failed to do so. In this failure it produced a Report which was what the Government wanted - one which would not require any action whatsoever."

2.2.3 The allegations by Mr Gorrie were such that the Committee determined to invite him to meet with the Committee in March. An in camera hearing was held on 18 March 1994 with Mr Gorrie.

2.2.4 Generally Mr Gorrie's allegations reiterate several points of dissatisfaction put to EARC during its initial investigation and responded to in Appendix M of that Report, but in general can be summarised as:

Allegation 1 *A failure by EARC to assess the facts evidenced by statements by the Chair of EARC, David Solomon that no submissions had been received from journalists when some had been processed by EARC at that time.*

This allegation refers to a claim in Mr Gorrie's first submission to EARC in which he stated: "contrary to the view that EARC has only received two AJA submissions and none from individual journalists, EARC has received several submissions from individual journalists" (EARC file 009C/7).

The Committee understands that a comment to this effect was made by EARC Chair Mr David Solomon during a radio interview. At the hearing, it was put to Mr Gorrie that this may have simply been a misunderstanding in that Solomon's reference may have been to journalists working in the print and electronic media, rather than journalists employed in other areas. Mr Gorrie conceded that this may have been a source of misunderstanding (Transcript p.3).

The Committee does not consider that a misunderstanding on Mr Gorrie's part constitutes evidence of a failure by EARC to 'assess the facts'. It is certainly not a breach of its statutory duty "to include in its reports ... an objective summary and comment with respect to all considerations of which it is aware that support or oppose or are otherwise pertinent to its recommendations" (s.2.23(2)(d)(ii) of the Act).

Allegation 2 *That David Solomon had a 'no problem attitude' evidenced by the treatment of submissions in that review. That is, a bald acceptance of government submissions and a rejection of other submissions (including his) that argued for safeguards.*

It became clear at the hearing that the government submissions referred to were not submissions to EARC from government departments, but were the "submissions from the Government media people". In particular, it was a reference to what Mr Gorrie perceived as EARC's acceptance of the word of the Director the Media Unit at the Premier's Department, Dennis Atkins, over his own (Transcript p.3). The Committee reminded Mr Gorrie that EARC sought responses from the various persons about whom Mr Gorrie had made allegations in his submission to EARC. Mr Gorrie was asked whether he thought it would have been more fruitful to cross-examine the respondents rather than simply requesting written responses from Mr Atkins for example. Mr Gorrie replied:

"It may have been. Mr Atkins saying that it did not happen does not necessarily constitute an investigation. It may be that it was impossible to investigate it; I do not know" (Transcript p.4).

Mr Gorrie's argument was that by accepting government media officers' submissions over his own, EARC failed to accept that there had been attempts to influence the media. When it was suggested to Mr Gorrie that his complaint was really that there was no prosecution of the individual allegations made by him, he replied:

"No. I would have been perfectly happy if EARC had accepted the Sir Edward Lyons incident. That is enough to justify safeguards. But they did not suggest safeguards; they simply said that everything else had been resolved. That means they accepted Dennis Atkins' submission over mine without question" (Transcript pp.7-8).

The reference to the word 'resolved' comes from EARC's reply to Mr Gorrie in Appendix M, where it was stated:

"The Commission considered the little in the Gorrie material that was relevant to the review in which it was engaged had not already been resolved by the responses it had received or could expect to receive" (EARC 1993, p.M1).

It was put to Mr Gorrie that the word 'resolved' does not necessarily mean that EARC had decided that allegations were false. Rather it could mean that EARC considered that material received or expected to be received would be adequate to resolve the issues relevant to its terms of reference for this review. Indeed, that is the inference suggested in the quotation above. Mr Gorrie reiterated his concern of the need for safeguards. This is discussed in (e) below.

The Committee is satisfied that EARC reviewed all of the relevant evidence in an impartial way. EARC sought and considered responses from all people named in Mr Gorrie's submission to EARC. The Committee has examined all of the available material and concluded that there was no evidence to suggest a "bald acceptance of government submissions" as asserted by Mr Gorrie.

Allegation 3 *That there was no cross examination of witnesses as occurred in the state and local government electoral reviews and, in line with the Government's wishes, there was no testing of evidence under oath.*

At the hearing Mr Gorrie confirmed that in his view, giving evidence under oath was a way of overcoming the problem of people 'dobbing in' their colleagues. A colleague had told Mr Gorrie that he would not be able to give any evidence:

"... unless he was required to do so by a formal hearing where he could be punished for lying or punished for not turning up. Then ... he could in fact, come along and simply tell the truth according to his obligations" (Transcript p.6).

EARC was not subject to the rules of evidence in gathering its evidence or discharging its functions. The Commissioners had the power to administer an oath or affirmation (s.2.24), but were not obliged to do so. The Act does not give a person the right to require that EARC hold a public hearing or that EARC take evidence under oath at a public hearing.

EARC state in Appendix M that the request by Mr Gorrie and others to hold a public hearing and require witnesses to give evidence on oath was not justified in the circumstances (EARC 1993, p.M1).

Mr Gorrie advanced no evidence of the Government expressing a wish to exclude evidence on oath. The Committee agrees that public hearings on the issues raised by Gorrie would not have further clarified the issues under review.

Allegation 4 *That EARC ignored the evidence of the interference by the former Government at Channel 9 under Allan Bond.*

Mr Gorrie's first submission to EARC provided the following information:

"As Fitzgerald Inquiry evidence confirms, gross political interference occurred at Channel 9 during the period in which it was owned by Allan Bond. Mr Bond himself admitted to making a \$400,000 payment to Sir Joh as a 'defamation settlement', despite the advice of lawyers, on the understanding that this would assist Bond in his other non-media business interests in Queensland. More dramatic, however, was the appointment of Sir Joh confidante Sir Edward Lyons to the Channel 9 Board, a move which was soon followed by the termination of the hard-hitting, widely watched and respected current affairs program, *Today Tonight* — a move which resulted in the sacking of the program's entire staff. These two incidents alone surely indicate the need for some check on the media-relations conduct of politicians and their advisers" (EARC file 009C/7).

In Appendix M, EARC stated that:

"The Commission has no doubt that Governments have from time to time improperly applied pressure on media organisations. The Bond/Bjelke-Petersen matter referred to by Mr Gorrie was one such instance. However, in relation to the other allegations by Mr Gorrie, the Commission has no evidence of impropriety by the Government" (EARC 1993, p.M8).

In response to the allegation that the Bjelke-Petersen Government was indirectly responsible for the closing down of the *Today-Tonight* current affairs program, EARC said that it had no additional information on the matter (EARC 1993, p.M5). The Committee concluded that there was sufficient evidence in EARC's report to indicate that EARC did consider the matter of interference by the former Government at Channel 9 under Allan Bond.

Allegation 5 *That EARC ignored Mr Gorrie's argument that EARC existed to look at systems and safeguards for the future; EARC did not provide safeguards for individuals; and EARC produced the report Government wanted.*

EARC was constrained by the EAR Act. Specifically, EARC's role was to investigate "Activities of Ministerial press secretaries and the media sectors of units of public administration" (Schedule, item 4). Generally, the scope of EARC's investigation was concerned "only with systems, principles and practices, and not with particular instances of alleged inefficiency, dishonesty or partiality except to the extent that such instances indicate or suggest deficiency in existing systems, principles or practices" (s.2.9(2)).

EARC's activities were controlled by its legislation and EARC clearly understood its role was to investigate and report on systems, principles and practices of units of public administration. In their reply to Mr Gorrie in Appendix M, EARC said that specific allegations of malpractice have value only to the extent that they suggest deficiencies in existing systems, principles or practices (EARC 1993, p.M3).

At the hearing Mr Gorrie linked individual allegations with EARC's perceived failure to recommend safeguards:

"If those particular individual allegations were of such importance that they were not going to recommend safeguards unless they could be proven, then I think they did have an obligation to investigate them ... I quite agree that if EARC did not wish to pursue the individual allegations, they did not have to, but they should have accepted that these things are possible and provided some safeguards" (Transcript p.7).

Mr Gorrie seems not to appreciate that EARC did in fact accept that governments have from time to time improperly applied pressure on media organisations (EARC 1993, p.M8). In Chapter Five of EARC's Report the recourse open to journalists complaining of government manipulation was discussed. These were:

- (i) To complain to the Australian Press Council;
- (ii) Present a case to the AJA's Judiciary Committee if a Ministerial Media Adviser is a member of the AJA and is believed to have breached the AJA's *Code of Ethics*;
- (iii) Recourse through the *Judicial Review Act 1991*;
- (iv) To complain to the Ombudsman;
- (v) To make the manipulation public through the media (EARC 1993, para.5.58).

The Committee is satisfied that EARC did examine safeguards and considered whether they were adequate. Although Mr Gorrie may disagree with EARC's conclusions that the existing safeguards are sufficient this is not in itself sufficient to suggest a breach of statutory duty.

2.2.5 In conclusion, the Committee considers that Mr Gorrie failed to adequately substantiate his allegation that EARC failed in its statutory duty to be impartial and act in the public interest.

2.2.6 In his submission to this Committee, Mr Orr stated that EARC misrepresented his view because he did not recommend with Mr Gorrie that EARC hold public hearings to investigate incidents of media manipulation. EARC attribute this view to Mr Orr in Appendix M (EARC 1993, p.M1). The Committee have examined Mr Orr's submission to EARC. Some parts of it were deleted due to the contents possibly being defamatory, contrary to the public interest, or unfair to make it available to the public. The parts of the document that are publicly available do not contain support for the holding of public hearings. From the available evidence the Committee concludes that EARC may have been mistaken in attributing this view to Mr Orr.

3 ASSESSMENT OF EARC'S RECOMMENDATIONS

3.1 EARC's Recommendations

3.1.1 A summary of EARC's recommendations on government media and information units appears as Appendix C to this report.

3.1.2 The general thrust of EARC's recommendations is:

RELEASE OF INFORMATION

- (a) Disclosure rules as set out by EARC should be adopted by Ministers, State Government agencies and local authorities;
- (b) Government media releases should be distributed equally to all relevant media outlets and Members of the Legislative Assembly and media conferences and briefings should be available for representatives from all media outlets to attend. It is improper for the Government to deny or withhold information to one medium where it is available to another;
- (c) Elected and appointed public officials should provide information honestly and in good faith when they provide briefings to the media;
- (d) The Cabinet Handbook be amended to ensure that all Ministers are made aware of their constitutional responsibilities to act in the public interest and not to disclose confidential information or government information likely to injure the public interest.
- (e) The *Code of Conduct* be amended to recognise appointed public officials' legal responsibilities to act in the public interest and not to disclose confidential information or government information likely to injure the public interest.
- (f) The *Criminal Code* be amended to place an obligation on former officials not to disclose confidential information acquired during their term of office.
- (g) Details of all expenditure by Ministerial Offices be tabled annually in the Parliament and the Government recover the cost of transporting journalists on Government aircraft.

MINISTERIAL MEDIA STAFF

- (a) Appropriate Codes of Conduct should be developed for ministerial staff who should continue to be employed on a contract basis. Each contract should not exceed the term of the Government and should not be subject to PSMC selection standards.
- (b) The Premier's Department should publish the staff establishment and other relevant details of Ministerial Offices each year in its Annual Report. The staff

establishment of the Opposition parties should be maintained at 20% of that of Ministerial Offices and reflect parity with the salary profile of ministerial staff.

- (c) The relevant Committees of the Queensland Legislative Assembly periodically monitor the costs and operations of ministerial and departmental media and information units and report their findings to Parliament;

GOVERNMENT PUBLICATIONS

- (a) Parliament, through its committees, should call the Directors-General of departments to account for the information presented to Parliament in Annual Reports
- (b) The development of guidelines for departmental publications to accommodate the needs of non-English speaking persons. These guidelines should indicate which publications should be reproduced in a language other than English
- (c) The evaluation of the effectiveness of departmental and agency publications and the development of reliable systems to cost the actual production costs of publications. Decisions by government agencies on the price of publications should take into account a comprehensive costing of the publication, including staff and other internal resources expended in their production. These guidelines should make explicit the requirement that the purpose of government publications is the provision of relevant information and not promotion of government or 'corporate' image
- (d) Goprint offer the Media Information Summary for sale at a price that would return its cost of production
- (e) The establishment of more regional outlets for government publications including private newspapers and bookshops

INFORMATION CAMPAIGNS

- (a) Guidelines be developed that make explicit the role of government information campaigns to facilitate the processes of government and the well-being of the public. Information campaigns should provide comprehensive factual information. Such guidelines to contain directives that:
 - (i) government agencies should not disseminate information that is designed to secure or promote support for a political grouping, or advance the interests of the government over any other parliamentary grouping;
 - (ii) information and promotional material is to show the authorisation for the material;
 - (iii) placement of government advertising is determined on a needs basis;

- (iv) consideration should be shown for audience characteristics such as ethnicity, literacy, geographic isolation and social networks;
- (v) feedback is to be recorded for future client targeting;
- (vi) information campaigns are to be facts-based; and
- (vii) evaluation processes are to be specified in any proposal for an information campaign.

(b) Co-ordination of agency communications activities and the development of standards in regard to propriety and implementation of agency information dissemination initiatives

DEPARTMENTAL MEDIA UNITS

- (a) The creation of a central office of information and advertising to act as a central reference point for all information and communication policy development;
- (b) The Queensland Cabinet Handbook be amended to emphasise the importance of public communication in the development and implementation of public policy
- (c) All agencies to develop a communications strategy based on the public's right to know; and
- (d) Agency policies should incorporate communication strategies into the conceptual, development and implementation stages of the policy programs
- (e) Guidelines regarding the purchase and accessibility of market research should be developed and issued.
- (f) A Media Standard should be developed for departments and agencies.
- (g) the Public Finance Standards be amended to require departments' and agencies' Annual Reports to itemise expenditure on:
 - (i) advertising agencies;
 - (ii) market research organisations;
 - (iii) polling organisations;
 - (iv) public relations firms;
 - (v) media advertising placement organisations;
 - (vi) direct mail communications;
 - (vii) printing and reprographic services; and

(viii) any other consultants and services

- (h) Guidelines be developed for all agencies directing information to Aboriginals and Torres Strait Islanders and that all agencies address the issue of cultural diversity in their information plans.

3.2 Committee's Approach to EARC's Recommendations

3.2.1 The Committee has considered EARC's recommendations in the light of available evidence and is satisfied that the intention of the majority of EARC's recommendations is appropriate. There are, however, a number of points that the Committee believes deserve further attention and these are addressed in the Report.

3.2.2 In addition the Committee considers that EARC's statutory limitations which constrained its ability to examine the media industry was unfortunate and limited the usefulness of EARC's Report. Consequently, the Committee has considered a number of issues of public concern in Queensland namely concentration of media ownership, regulation of the industry, ethical standards and legal protection for journalists.

3.2.3 Whilst not recommending a further separate inquiry into the media in Queensland the Committee has made a number of recommendations aimed at increasing the accountability of the media so as to strengthen community confidence in its role as the fourth estate. In all other respects, the Committee welcomes EARC's recommendations and commends them to the Legislative Assembly.

4 DISCLOSURE OF GOVERNMENT INFORMATION

4.1 The Official Secrecy Regime

4.1.1 The culture of secrecy which is characteristic of government is perhaps the greatest impediment journalists face. The development of administrative law is beginning to change this culture and the onus of secrecy is gradually being reversed. The introduction in Queensland of administrative law mechanisms such as freedom of information legislation, judicial review of administrative decisions and independent administrative appeals mechanisms should facilitate access to information on the operations of government.

4.1.2 The submission to the Committee from the Media Entertainment and Arts Alliance (MEAA) highlighted the contribution to public scrutiny of government that journalists had made when they developed stories from outside the formal announcement process. Such investigation, however, is not always reflected in the culture of political journalism. A former Prime Minister of New Zealand, Sir Geoffrey Palmer, has suggested that journalists use FOI in a half-hearted way which ultimately deprives the public of much important information:

"[Journalists] focus of attention constantly shifts. They do not usually follow policy development carefully over time ... By and large journalists do not seem interested in analysing past decisions. They want information on decisions about to be taken. What will happen is always bigger news than the background to what has happened. Crystal ball gazing is also easier than hard research" (1992, p.222).

4.1.3 This is not to suggest that journalists do not use Queensland's FOI laws but as the records do not identify requests, its actual use by journalists is impossible to quantify. The 1993 FOI request and subsequent appeal to the Information Commissioner by Mr Roy Eccleston of *The Australian* was significant in that it helped to clarify the meaning of the exemption provisions of the *Freedom of Information Act 1992* (see Information Commissioner, Decision 93002 30 June 1993).

4.1.4 Speaking at EARC's Public Seminar in June 1992, the Deputy Editor of *The Canberra Times*, Jack Waterford, suggested that there was government news beyond the media release but that news organisations and journalists were too lazy and complacent to research it:

"So if there is news there, why are not the reporters on to it? Actually, there are two good reasons. One is that reporters are too lazy and complacent. Another is that their news organisations, which are all too often relatively smug monopolies, are unwilling to devote the resources there because they can get newspapers or broadcasts out without them and without anybody seeming to notice.

Too lazy? Alas, all too often this type of work is not the sort of thing which can be done by rewriting a press hand-out, by taking a feed from a PR man, or by watching close engagements in Parliament. It involves work, and research, and time, and attention to ideas; those notoriously difficult things to get on air or into print unless there is some strong action hook, usually some artificial stamp, to hang it on. And all too often, the conflict which is present is difficult to trivialise

simply as a party political matter or a factional matter, or one that can be reduced to quoting 'X' and counter-quoting 'Y' ...

In Queensland, as in all too many places, relations between politicians, press secretaries and the media are altogether too cosy and too pally for words" (1992, pp.11-12).

4.1.5 That same seminar was told of some of the difficulties from the local media's perspective which suggested that journalists may be unable rather than unwilling to adequately research their stories:

"The way many government media conferences are handled is also conducive to the media often being unable to pump out much different to the government line. It works like this: media conference at 2 pm, Media turn up, Minister arrives with minder, minder provides media with a page or two about some major issue which the government often has spent months working on. The journalists, who most likely have not even had time to read to the bottom of the press release, are asked, 'Any questions?'

In an almost lunatic attempt that fools no one except the public and usually the journalist's own conscience, you then run around to the Opposition to get its impression of this latest earth-shattering initiative by the Government, bearing in mind the Opposition has probably put about as much thought into the process as you have. After getting their response you put it all together for public consumption and somehow kid yourself that you have balanced the story ... It is a joke, but it is also the system at work.

And serious analysis, you can forget about that as well ... Budgets are so tight there is barely enough staff to get the news bulletins out in a professional manner before gearing up again for the next night. Although I am sure all news Editors, and even some managements would prefer it otherwise, there is simply no room for the luxury of having a senior journalist spending perhaps a couple of weeks digging around on an investigative story when they could be pumping out a story a day for the nightly newscast" (Clarke 1992, p.56).

4.1.6 This contribution from Clarke also suggests that insufficient resources are made available to support investigative journalism.

Disclosure Rules

4.1.7 The Committee is concerned to ensure that those journalists and media organisations with the will and ability to research and analyse government stories should not be restricted by undue government rules on secrecy. Chapter Three of EARC's report examined the official secrecy regime in Queensland and the operation of the *Freedom of Information Act 1992*. EARC suggested that there had been a re-orientation of the management of official information through three separate developments in Australian public law and in common law. The first development was the abandonment in 1988 of the strict Public Service Act requirements for secrecy. The second was the enactment in 1992 of Freedom of Information legislation. The third development was in the common, or judge made, law where it is now accepted with respect to disclosure of government information, that :

- (a) government is constitutionally required to act in the public interest (see *Attorney-General (UK) v Heinemann Publishers Australia Pty Ltd* [1987] 10 NSWLR 86 at 191 per McHugh JA);
- (b) the interests of government do not exhaust the public interest (see *Glasgow Corp. v Central Land Board* [1956] SC 1 at 18-19, endorsed by Stephen J in *Sankay v Whitlam* (1978) 142 CLR 1 at 59);

(c) government's own information will not be protected from disclosure unless that disclosure is likely to injure the public interest (see *Commonwealth of Australia v John Fairfax & Sons Ltd* (1980) 32 ALR 485 at 493 per Mason J).

4.1.8 EARC reviewed the operation of the *Criminal Code 1899*, the *Code of Conduct for Public Officials* issued under the *Public Sector Management and Employment Act 1988*, Crown Copyright, the common law, the *Freedom of Information Act 1992* and various secrecy obligations. In relation to the *Criminal Code 1899* and the *Code of Conduct*, EARC concluded that the combined effect of s.86 of the *Criminal Code 1899* and s.4.2 of the *Code of Conduct* was that the disclosure of most official information by public officials was restricted. Unless information was released under FOI an official would need to abide by the organisation's established practice, and obtain the authorisation of the agency's Chief Executive Officer or Minister before releasing official information to the media. The present *Code of Conduct* provides:

"Officers are not prohibited from disclosing official information which would normally be given to any member of the public seeking that information. However, official information of a confidential or privileged nature should not be disclosed to unauthorised persons or organisations, except with the approval of the Chief Executive" (Clause 4.2 emphasis added)

4.1.9 However, EARC considered that s.4.2 of the *Code of Conduct* required clarification of what constitutes confidential or privileged particularly as it indirectly provides the duty to 'keep secret' referred to in the *Criminal Code's* disclosure of official information offence (s.86).

"The means of determining precisely what can be disclosed to the media or the public and what cannot remains unclear. No distinction is made between information, the disclosure of which may cause real harm to the public interest, and information the disclosure of which may cause no harm whatsoever. This can cause considerable difficulties for public officials in their dealings with the media" (EARC 1993, para.3.27).

4.1.10 EARC was therefore of the view that a new information disclosure rule should be adopted to clarify unacceptable disclosure of official information. Such a rule should take into account provisions of the *Criminal Code*, *Freedom of Information exemption principles* and the disclosure of official information in the 'public interest' or where government information can be divided into four distinct types based on modern legal purposes interests: public information, third party information, government information and proprietary information (see EARC 1993, pp.45-47 for a full description). These interest protection rules are largely mirrored in the *Freedom of Information Act 1992*.

4.1.11 EARC recommended that the following information disclosure rule be adopted by state government agencies and local authorities:

"Disclosure of Official Information. Officials may disclose official information which may be released with lawful authority to any member of the public.

An officer may disclose official information except where -

- (a) *authority for its release has been explicitly denied or withheld; or*
- (b) *lawful authority for its non-disclosure is required.*

An official shall not disclose information obtained from a non-government source, without the consent of the supplier, unless -

- (a) *the information was supplied for a purpose which permits its disclosure; or*
- (b) *there is lawful authority for the disclosure"* (EARC 1993, para.3.97).

4.1.12 The Committee considers that this disclosure rule, which was originally part of EARC's *Code of Conduct* (see EARC 1992, Appendix F), is poorly drafted. For example, the requirement that "An officer may disclose official information except where lawful authority for its non-disclosure is required" is not clear. The Committee considers that an alternative direction that 'an officer may disclose official information except where that officer has a lawful duty not to disclose certain information' may be appropriate. In any case the terms of the disclosure rule should be redrafted by the Office of Parliamentary Counsel before it is adopted.

4.1.13 The submission from the MEAA argued that there was no need for additional disclosure rules for MEAA members and that EARC's recommendations would unnecessarily prohibit disclosure of information:

"The Commission in its Report on Review of Codes of Conduct for Public Officials said that such a code should prohibit improper disclosure of public information.

Media advisers and information officers are already bound by AJA's Code of Ethics to honestly disclose information.

Recommendation .. [3.92] goes a step further and attempts to prohibit disclosure of information. We view such a recommendation as dangerous in theory and impossible in practice to implement and police.

Information obtained by a government source such as a media adviser or information officer should be regarded as legitimate information and treated in such a way"

4.1.14 EARC's recommendation effectively improves rather than restricts the flow of information from public officers. Under the EARC scheme the existing s.4.2 of the *Code of Conduct* would be replaced by a new disclosure rule and release of information would be justified by an official's duty statement and guided by EARC's disclosure rule based on the exemption provisions of the *Freedom of Information Act 1992*. The Committee supports EARC's view that this would eliminate much of the present uncertainty

regarding the identification and exercise of an individual officer's authority to release information and increase the flow of information to the public.

4.1.15 The Committee considers that adoption of EARC's recommendation would also eliminate the present practice of directing all media inquiries through the minister's office. In the interests of a uniform approach the types of information that should not be disclosed should be that information described in the exemption provisions at ss.36-50 of the *Freedom of Information Act 1992*.

4.1.16 However, disclosure of this information is significantly different from disclosure of any "information obtained by a government source" as suggested by the MEAA. The fundamental question of what information can lawfully be released by public officials cannot be resolved simply by that official applying the AJA's *Code of Ethics* as suggested by MEAA. Elsewhere in its submission MEAA appear to understand and accept this argument.

4.1.17 The Committee considers that implementation of a disclosure rule as proposed by EARC should reduce any undue restrictions on the information that could legitimately be released by government to the media. The challenge is then for journalists and media outlets to use this greater access to produce reports that look further than those available through the official announcement process. In the event that the government refuses to release information a journalist may formalise their request through an FOI application and ultimately appeal to the Information Commissioner.

4.1.18 THE COMMITTEE RECOMMENDS that Departments and agencies including the Parliamentary Service Commission, and local authorities adopt EARC's disclosure rule following redrafting to clarify its intent.

4.2 Media Standards

4.2.1 EARC noted that most departments did not have formal standards for media contact to facilitate the release of information to journalists and recommended that a Media Standard be developed in conformity with its suggested *Code of Conduct* (EARC 1993, para.8.229). In EARC's view, such a Standard should include the following principles:

- (a) agencies should liaise with the media on a regular basis as a means of promoting information about agency services;
- (b) matters that involve statewide issues, policy issues/interpretation or an expression of official opinion are to be dealt with by either a senior agency official or the Minister's office;
- (c) agencies should be obliged to make media comment on issues that fit into the following categories:

- (i) concern a small local issue
- (ii) require factual information only

- (iii) concern the provision of services by the agency;
- (d) agency media releases should be clearly identified with the agency and should include the name and contact number of a contact officer; and
- (e) media releases should be issued to all relevant media outlets so as to ensure fair distribution of government information (EARC 1993, para.8.229).

4.2.2 EARC also recommended that government agencies provide media training for senior officers (EARC 1993, para.8.238).

4.2.3 In a submission to the Committee Mr Greg Chamberlin, Managing Editor Gold Coast Publications, commented on the reluctance of some departmental officials to speak to the media:

"A practice which seems to be prevalent is that media inquiries to government departments or even simple requests for details of an Act or Regulation are directed to a Minister's office. A large number of public servants appear either to feel gagged in their code of conduct or have been directed to channel media inquiries regardless of nature through the Minister's press secretary".

4.2.4 The submission from the Department of Environment and Heritage took issue with that part of EARC's recommendation that would require agencies to make media comment on issues of small local concern, required only factual information or concerned the provision of services by the agency (EARC 1993, para 8.229(c)). That submission argued that departments must be able to decide on which issues they will respond otherwise a pool of spokespersons would be required to avoid problems of unavailability.

4.2.5 The Committee does not accept that government agencies should have a discretion as to responding to requests for such basic information. The argument that it is inconvenient or expensive to respond to requests for information is at odds with the public's right to information and the considerable trouble and expense that agencies go to in disseminating information that the agency wishes known. The Committee has previously endorsed EARC's earlier recommendation that public officials should disclose information except where authority for its disclosure is expressly denied (EARC 1993, para.3.92). The above recommendation is consistent with that ideal. Indeed, the Committee agrees with the submission from the Managing Editor, Gold Coast Publications, that agencies should service requests for factual information without referring the request to the Ministerial Office.

4.2.6 THE COMMITTEE ENDORSES EARC's recommendations at paras.8.229 and 8.238 as outlined above.

4.3 Application of the Criminal Code 1899

4.3.1 Whilst EARC sought to clarify who could reveal particular classes of information and under what conditions, a number of issues relating to the application of the *Criminal Code 1899* remain unresolved.

Persons Covered by the Criminal Code 1899

4.3.2 Section 86 of the *Criminal Code 1899* only applies to persons "employed in the Public Service". The scope of this term is unclear. The question is whether s.86 is limited to public officials employed under the PSME Act. For example, while the *Criminal Justice Act 1989* imposes confidentiality obligations on the Commissioners, officers of the Commission and on Members of the Parliamentary Committee, no such obligations are imposed on the Committee's staff (s.6.7 of the CJ Act). Those staff are employed by the Parliamentary Service Commission, but the *Parliamentary Service Commission Act 1988* does not impose secrecy obligations upon its employees. This oversight was of concern to the Parliamentary Criminal Justice Committee. In its *Report on Review of the Operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission* the Committee recommended that confidentiality provisions in the CJ Act apply to "any person who is or was an officer or employee of the Parliamentary Service Commission" (PCJC 1991, para.6.7.1). Thus far, that recommendation has not been implemented.

4.3.3 EARC argued that the duty to keep secret may also apply to Ministers but only in their role as Executive Councillors. EARC also noted that while the Queensland Executive Councillors' oath of secrecy is not required by statute, as is the case in the Commonwealth, New South Wales, South Australia, Tasmania and the Northern Territory, the obligation to maintain the secrecy of any information directed by the Governor to be kept secret remains. That obligation is formally owed to the Crown and possibly also creates the duty to keep secret referred to in s.86 of the *Criminal Code 1899* (also see *Attorney-General v Jonathan Cape Ltd* [1976] 1QB 752 at 770). However, this secrecy obligation only applies to Ministers in their capacity as Councillors and does not affect them otherwise and especially as Members of Cabinet (EARC 1993, para.3.139). In a submission to the Committee, Bond University Associate Professor Gerard Carney argued that s.86 would not apply to Ministers or Executive Councillors:

"The reference to 'Public Service' seems to be to that body the appointment of which is controlled by a Public Service Act or equivalent legislation such as the PSME. Ministers do not normally fall within the operation of such legislation. Further while Ministers are public officers, they are not generally viewed as employees of the Crown. One could not say that a relationship of master and servant exists between a Minister and the Crown ..."

The same arguments against Ministers falling within this phrase apply here, even more forcibly, to Executive Councillors. Further, if employment in s.86 entails payment for services, this provides an additional argument, as Executive Councillors are not paid for their services."

4.3.4 At present, this argument turns on the definition of "persons employed in the Public Service" (s.1 *Criminal Code*, see also Finn 1991, p.212 fn.299). But this issue appears to have been addressed in the *Final Report of the Criminal Code Review Committee to the Attorney-General* of June 1992 where definition of the term "public officer" would include Ministers:

"The term 'public officer' means a person other than a judicial officer discharging a duty imposed by any Statute or of a public nature, or holding office under or employed by, the State of Queensland, whether for remuneration or not" (Schedule 3, p.43).

4.3.5 The proposed definition also makes it clear that a 'public officer' is any person discharging a duty imposed by any statute, thereby addressing the concerns of the Parliamentary Criminal Justice Committee (see para.4.3.2).

4.3.6 THE COMMITTEE RECOMMENDS that the *Criminal Code 1899* be amended to clarify the persons who are covered by the Code.

Post Employment Issues

4.3.7 EARC recommended changes to the *Criminal Code* to place an obligation on former officials not to disclose confidential information acquired during their term of office although no justification was offered in EARC's report (EARC 1993, para.4.186(c)).

4.3.8 The submission from the Queensland Press Gallery expressed concern at this proposal:

"Recommendation [4.186(c)] ... causes some concern to the Gallery in that it seeks to restrict public access to Government information, confidential or otherwise."

In particular, the Gallery would be concerned that it would be a criminal offence for former officials to disclose confidential information after leaving Government service."

In some instances, the public interest would be served if those officials disclosed confidential information."

4.3.9 Similarly, the submission from the MEAA strongly disagreed with EARC's recommendation:

"Recommendation ... [4.186(c)] calls for changes to the Criminal Code to oblige former officials not to disclose confidential information from their term of office."

We see this as running counter to the spirit of whistleblowers' protection which was one of the key recommendations of the Fitzgerald Report. We see this as limiting the flow of information."

4.3.10 The Committee agrees that, in certain instances, the public interest is served by the disclosure of confidential information. However, it is important to distinguish the unauthorised release of confidential information from the actions of a person 'blowing the whistle' on unlawful practices. The significance of whistleblowers' legislation is that while it permits disclosure of unlawful practices it does not sanction indiscriminate disclosure of confidential information. The draft *Whistleblowers Protection Bill 1992* developed by EARC and endorsed by this Committee (EARC 1991; PCEAR 1992) recognises the secrecy obligations officials may be under and specifically releases officials from a breach of those obligations (s.39). At present, limited lawful whistleblowing operates only under the *Electoral and Administrative Review Act 1989* and the *Criminal Justice Act 1989*.

4.3.11 Both EARC and this Committee have previously addressed the issue of the protection of persons who disclose information to the media. In its *Report on Protection*

of Whistleblowers EARC noted that investigation by the media was rarely an adequate substitute for an investigation by expert investigative authorities. The media's role in such disclosures was usually confined to calling for, and monitoring, investigation and follow up action by appropriate authorities (EARC 1991, para.6.156). EARC's recommended whistleblower scheme only provided protection from the law, such as for breach of confidence and defamation, to a person making a disclosure of possible wrongdoing to the media where there was a danger to the health or safety of the public which was serious, specific and immediate (clause 13 of the Draft Whistleblowers Protection Bill 1992). The Committee understands that the Government intends to introduce a Whistleblowers Protection Bill in the current session of Parliament but that disclosure of possible wrongdoing to the media will not be protected. Regardless, the enactment of whistleblowers' legislation as is now proposed would still address MEAA's concerns as an official could legally report suspected wrongdoing to recognised investigation agencies following termination of their employment.

4.3.12 At present, s.86 provides a criminal sanction on a person under an obligation not to disclose information by legislation, contract or the common law only while they remain employed in the public service or holding public office. The effect of EARC's recommendation 4.186(c) would be to continue the criminal sanction after they ceased to be so employed. There is some precedent for this. The standard contract of employment for Chief Executives in the Queensland Public Service provides:

"The Executive acknowledges that an obligation relating to the release of official information as prescribed by the Queensland Public Service Code of Conduct shall apply to the Executive and shall continue to apply after the termination of the Executive's employment hereunder without limitation, but shall cease to apply to information or knowledge which may lawfully come into the public domain" (Clause 15, emphasis added).

4.3.13 The obligation not to release information is linked to the Code of Conduct. In a previous section of this Report the Committee has found that Code to be an unsatisfactory guide to the disclosure of information (see para.4.1.9). In this case the link is curious because the Executive employment contract imposes the obligations for the release of information as prescribed by the Code of Conduct yet that same Code implies that the same Executive has the authority to authorise the release of information. In such a case it is unclear as to how the rules for the release of information would work. Post employment secrecy obligations are also contained in s.10.1 of the Police Service Administration Act 1990. Only in the latter example are former officials under a continuing obligation, reinforced with criminal sanctions, not to disclose certain information. The Committee considers that such a situation is unsatisfactory and should be contrasted with the Commonwealth where the Crimes Act 1914 provides:

"A person who, having been a Commonwealth officer, publishes or communicates, without lawful authority or excuse ... any fact or document which came to his knowledge, or into his possession, by virtue of having been a Commonwealth officer, and which, at the time when he ceased to be a Commonwealth officer, it was his duty not to disclose, shall be guilty of an offence" (s.70(2)).

4.3.14 The Crown Solicitor advised the Committee that in his view s.86 needs review as suggested by EARC:

"I can find no reported case on the point but it does seem curious that a disclosure made by a Public Officer the day before his or her resignation would be a criminal offence one made the day after would not be."

4.3.15 However, in relation to both EARC's proposal to amend the Criminal Code and the existing post employment obligations, the question arises as to how long the secrecy obligations should remain. For example, although Cabinet records are required to be lodged with the Queensland State Archives, and subsequently made public, after 30 years, many records can be exempted (s.57 Libraries and Archives Act 1988). It has been accepted in the courts that protection once given to a particular piece of information is not given absolutely and indefinitely (see *Whitlam v ACP Ltd* (1985) 73 FLR 414 at 423; and *Attorney-General v Jonathan Cape Ltd* [1976] 1QB 752 at 767 see also R Dean 1990, pp.115-164). Another issue is the classes of public official that should have a continuing obligation to 'keep secret'. Clearly the whole issue of post employment secrecy provisions requires detailed examination that is beyond the scope of this Report.

4.3.16 THE COMMITTEE RECOMMENDS that the Attorney-General conduct a review of requirements on former public officials not to disclose information acquired during their term of office.

4.4 The Public Interest Test

4.4.1 The Committee is concerned at the suggestion in the submission from MEAA that government may justify withholding certain information on the basis of public interest if recommendations at para 4.186 were implemented namely:

- *(a) the Cabinet Handbook be amended to ensure that all Ministers are made aware of their constitutional responsibilities to act in the public interest and not to disclose confidential information or government information likely to injure the public interest.*
- (b) the Code of Conduct be amended to recognise appointed public officials' legal responsibilities to act in the public interest and not to disclose confidential information or government information likely to injure the public interest"* (EARC 1993, para.4.186).

4.4.2 The submission from the MEAA noted that this recommendation included a public interest test on the conduct of ministers and officials in the release of information and identified problems in determining what disclosure is in the public interest and what is confidential:

"Experience of the past is that what is kept confidential is most often very much in the public interest.

Government already has substantial means available to prevent its servants dealing in information it wants to keep secret. In the case of sensitive commercial information, the government has recourse available through the civil courts.

Contract conditions of public servants already cover this possibility, so what other information does EARC propose should be included in this category?"

If it is not commercially sensitive, most likely it is politically sensitive?

Legislation should not be designed to save governments political embarrassment.

But [EARC's recommendation 4.186]... has the potential to put a legislative seal on what the public can know about the operations of governments simply by the device of having some information declared confidential or not in the public interest.

4.4.3 EARC's recommendation would simply act as a reminder to all public officials that they are obliged to act in the public interest when determining what information should be disclosed. FOI legislation effectively prevents the Government from citing the public interest as the means of declaring information confidential.

4.4.4 Under the *Freedom of Information Act 1992* the final arbiter in respect of access to information is not the Government but the independent Information Commissioner who has the power to compel the release of information, in some cases including exempt matter, if it is considered in the public interest. Although a Minister can certify that information is exempt matter this certificate must state the reasons for the decision and be tabled in Parliament (see ss.36, 37, 40 and 84 of the Act).

4.4.5 Common law, with respect to disclosure of information which provides protection for the public interest, has developed significantly in recent years (see EARC para.3.11). Thus the courts have an important role to play when government attempts to prevent the disclosure of information it certifies not to be in the public interest. Recent decisions of the High Court and the Queensland Court of Appeal have confirmed this. In *Criminal Justice Commission v Collins* (judgement of Qld Court of Appeal, 18 February 1994) a majority of the Court of Appeal approved of the public interest test applied in *The Commonwealth v Northern Land Council* (1993) 67 ALJR 405). The argument put by the CJC in that case, that CJC documents had blanket immunity from disclosure, was rejected by the Court of Appeal. The EARC report referred to the High Court case of *The Commonwealth v John Fairfax and Sons Limited* (1980) 32 ALR 48). There Justice Mason, as he then was, heard an application by the Commonwealth for an order to restrain the defendant from publishing the contents of, or extracts from, a book which contained what were argued to be confidential documents of the Commonwealth.

4.4.6 Justice Mason said:

"It is unacceptable, in our democratic society, that there should be a restraint on the publication of information relating to government when the only vice of that information is that it enables the public to discuss, review and criticise government action.

Accordingly, the court will determine the government's claim to confidentiality by reference to the public interest. Unless disclosure is likely to injure the public interest, it will not be protected.

The court will not prevent the publication of information which merely throws light on the past workings of government, even if it be not public property, so long as it does not prejudice the community in other respects" (1989) 32 ALR 485 at 492-3).

4.4.7 This outlines the criteria adopted by the courts when parties to proceedings seek to publish government documents. The court balances the public interest in disclosing the information with the need for Government confidentiality.

4.4.8 EARC's recommendation at para.4.186 made reference to a constitutional responsibility of Ministers to act in the public interest regarding disclosure of government information. There may be future implications for Queensland governments arising from the *Australian Capital Television Pty Ltd v The Commonwealth* (No. 2) and *Nationwide News v Wills* cases, in which some judges of the High Court have favoured the existence of a broad fundamental constitutional obligation on the part of government to act in the best interests of the people. These cases were discussed in a submission from Brian Fitzgerald from the Griffith University Law Faculty:

"Government is for the people and must be carried out in their best interests; that is a constitutional principle that is generated/implicit from the notion of representative government which underlies our democracy. In this sense we have a common law constitutional principle that government must act in the best interests of the people that arises from the notion of representative government; it is implicit in our political structure. If government is to be representative of the people it must act in their best interests.

We are yet to see how this developing constitutional principle (strongly supported by three High Court judges) will impact on the management of information by governments. It could very well be the case that implied in representative democracy is a right to have access to documents and a right to have government run in an open way. In essence the recommendation EARC is making in this area is probably similar to what one might imply as a constitutional right from the notion of representative democracy ...

This constitutional right if it exists in Queensland could be regulated but not extinguished by parliament. It would be a fundamental constitutional right."

4.4.9 The Committee notes that EARC did not take the opportunity during its review of the Queensland Constitution to recommend the incorporation of a statutory responsibility to act in the public interest. The Committee will consider this important issue further during its review of that Report.

4.4.10 THE COMMITTEE ENDORSES EARC's recommendations that:

- (a) the *Cabinet Handbook* be amended to ensure that all Ministers are made aware of their constitutional responsibilities to act in the public interest and not to disclose confidential information or government information likely to injure the public interest.
- (b) the *Code of Conduct* be amended to recognise appointed public officials' legal responsibilities to act in the public interest and not to disclose confidential information or government information likely to injure the public interest.

5 NEWS MANAGEMENT

5.1 Introduction

5.1.1 The Committee regards the opening up of the official secrecy regime within the bureaucracy as discussed in the previous Chapter as the most fundamental reform in government media relations. Once those proposals and many of the other accountability mechanisms resulting from the Fitzgerald Report are in place, the test of the media will be the extent to which it informs the public through with its own research without recourse to rewriting government media releases as evidenced by EARC's Media Release Study (EARC 1993, paras.N16 to N18).

5.1.2 At EARC's Public Seminar in June 1992 one of the journalists responsible for the exposure of corruption that eventually led to this Review suggested that the media was still not sufficiently inquiring:

"You would have expected political coverage in Queensland at least would be a bit more challenging and aggressive in the post Bjelke-Petersen era but instead I openly hear my colleagues wondering ... what it is that Mr Goss or Dennis Atkins manages to put in the chook feed ..."

So what do we do and who is to blame? Despite having modified some of my views I see that the problem is still largely our own. Television, despite being the perfect medium to reward a talent for observation continues to attract people with the opposite talent, and that is a talent for being observed" (Masters 1992b, p.37).

5.1.3 News management in itself is a necessary activity for any organisation or individual trying to get their message out to the public through the media. Competition is such that the government is only one such agency and news management is generally regarded by journalists and news proprietors as part of the process of gathering and presenting the news. However, governments sometimes extend news management and manipulate the media to avoid scrutiny, while the media seeks to enhance the dramatic and conflict elements of the news.

5.1.4 The Premier, the Hon. Mr Goss MLA, in responding to EARC's invitation to comment on Mr Gorrie's allegations, considered that the debate about government media manipulation was lacking perspective:

"While it is certainly true that the government, like any other major institution, seeks to have its activities communicated to the public on reasonably favourable terms it is also true that much more time is spent trying to prevent or resist media manipulation which is directed towards publishing misinformation or generating conflict where it does not or should not exist" (EARC file 009C/20).

5.1.5 Fitzgerald himself recognised that the government and media are involved in a symbiotic relationship in which each needs the other to achieve its ends. Thus government needs the media in order to get its message across to the electorate and the media depends on government information for much of its news and headlines; political news is the lifeblood of much of the media. Both government and media therefore

engage in news management and there are a range of news management strategies which each recognise as legitimate, or at least acceptable, on the part of the other:

"Let me say quite clearly that political reporters are not affronted by news management. We come to expect it from both sides. In fact, it has a high level of respectability. Universities teach it and press secretaries are paid to do it. The Americans have refined and given it that name 'spin control' and its practitioners are called 'spin managers' and 'spin doctors'. That governments are heavily into public relations techniques is not a secret. Everyone in the press gallery knows it and expects it from the government and opposition" (Morgan 1992, p.40).

5.1.6 However EARC was told of cases where government sometimes extended news management to manipulate the media to present the government in a favourable light, engage in 'damage control' or 'punish' journalists who pursue stories that the government considers biased or inaccurate.

5.1.7 In a submission to EARC the Queensland Law Society made reference to the practice of exclusion:

"The Society has been made aware of a number of recent allegations of working journalists being warned of a danger of exclusion from government information services because of previously published reports which may be construed as adverse to government or current government initiatives" (EARC file 009S/40).

5.1.8 This claim was supported in another submission to EARC by a media adviser to a non-government party Member of the Queensland Legislative Assembly:

"It has become not only normal, but expected, that if a journalist writes or broadcasts a critical story, he or she will receive a telephone call or personal visitation from a government 'minder' ... Such tactics on the part of Press Secretaries or other 'minders' are totally reprehensible. Sadly they are becoming more widespread, as Press Secretaries threaten to cut off the supply of government news to reporters who do not toe the government line" (John Phelan EARC file 009S/10).

5.1.9 EARC noted that the media itself can and does resist cases of news management that its members consider unacceptable. The media were generally regarded as being malleable during the Bjelke-Petersen era, but there were practices that even they rejected, as described by Quentin Dempster in his submission to EARC:

"My first substantial encounter with manipulation came in 1974 when the former Queensland Premier, Mr Bjelke-Petersen, ejected a Courier-Mail journalist Keith Fryday from his afternoon press briefing.

The Queensland branch of the Australian Journalists' Association, of which I was then president, banned members reporting comments of Mr Bjelke-Petersen until he agreed that he would accept all accredited journalists at his news conferences. We received moral support for our stand from the then editor of the Courier-Mail, the late John Atherton, and after a week of the news ban the Premier agreed substantially to our demands." (EARC file 009C).

5.1.10 A more recent example is the Premier's 'off the record' briefing of 6 February 1992 which was discussed on ABC Radio's Late Edition on 10 February 1993 and in *The*

Weekend Independent (14 April 1993, pp.14-15 see also EARC 1993, Appendix O), which illustrated that off-the-record briefings can backfire and cause political problems for the government, as well as ethical dilemmas for journalists.

5.1.11 The Premier's rationale for the briefing was to ensure that the dispute between the Government and the CJC was properly reported. *"The briefing was entirely ethical on the part of myself and ... those journalists who attended. The information that was conveyed ... was placed on public record the next day"* (Goss EARC file 009/76). Lawe Davies has suggested that although the briefing may have been trying to manipulate journalists this would have been known to the journalists involved (1993, p.80).

5.1.12 In a submission to EARC Dickie acknowledged that there will always be attempts to manage the media. That submission argued that encouraging media resistance to being manipulated was more likely to be effective than attempting to place restrictions on intending manipulators. The Committee agrees. However, the Committee also concurs with Dickie that it is not acceptable *"that manipulators should be left completely free of appropriate restrictions, guidelines and the like"* (EARC file 009/45). It was to this question of restrictions and guidelines that EARC addressed itself.

5.1.13 On the basis of submissions to EARC and this Committee it is clear that the fundamental characteristics of government media relationships cannot be changed. The Deputy Editor of *The Canberra Times*, Jack Waterford, in his contribution to EARC's public seminar in June 1992, described the relationship as inherently and inevitably adversarial and stressed that it was the role of the media outlet's editor or journalist to differentiate between government news and advocacy (1992, pp.9-10). Lawe Davies developed this point further:

"Politicians can put their message across by understanding and exploiting the news process. Journalists by contrast have the power of publishing behind them. If journalists complain of being fed propaganda and publish it because politicians understand that news equates with propaganda, then the journalists have only their own industry to look to" (Lawe Davies 1994, p.79).

5.1.14 EARC's recommendations with respect to government media relations focus on the government and relate to increasing access to information for all journalists and media outlets, measures to increase ministerial accountability and raise ethical standards of media advisers.

5.2 Access to Government Information

Media Releases

5.2.1 EARC examined the Government's use of media releases and their influence in the media and determined that the Government was conducting a reasonably successful media release program. EARC was particularly interested in the way the Administrative Services portfolio distributed its media releases and went so far as to conclude that there was some evidence to suggest an inappropriate use was made of this process for political purposes. The Commission recommended:

"The Government should ensure that media releases are distributed equally to all relevant media outlets and Members of the Legislative Assembly" (EARC 1993, para.4.84).

5.2.2 The submissions from MEAA and Koch agreed with this recommendation. Koch commented *"Prima facie, the recommendation is sensible. The significant adjective is relevant (media)"*. The submission from Turner made the point that distribution should be demand driven:

"... the key factor here is that it should be the recipients who decide what subset of the information pool they receive. Should any MLA or media outlet desire all releases, these should be made available without discrimination."

5.2.3 The submission from the Managing Editor, Gold Coast Publications, agreed with EARC's recommendation but noted that there should be closer liaison with media outlets:

"... our fax machine, daily, is heavily occupied receiving material we would not and could not use."

5.2.4 The Editor-in-Chief, Queensland Newspapers, agreed but added:

*"... I feel it is fair enough for media releases generally to be distributed equally to all media outlets. But where a media release is prepared in direct response to a query, investigation or initiative by *The Courier-Mail* or *The Sunday Mail*, any prepared response should be sent to *The Courier-Mail* or *The Sunday Mail* only."*

"... Surely the public interest is better served by journalists vigorously pursuing what is really happening rather than the sanitised version prevented by political minders of bureaucrats."

5.2.5 This submission raises an important point and the Committee supports journalistic initiative. Neither EARC nor this Committee expect that the government, having provided certain information in response to a request from a media outlet, should then be under an obligation to immediately issue that same information to all other outlets in the form of a media release.

5.2.6 The submission from the Queensland Parliamentary Press Gallery noted the concerns in relation to the use of media releases in the political process and also supported EARC's recommendation:

"Media Releases play an important advisory role and are seen as source material for news decisions, not only in politics — but also in general news gathering ... Attempts at news management are inevitable and healthy scepticism is an important part of a political journalist's armoury. But in the interests of fairness and as a guard on political propriety, the Gallery supports the recommendation that Media Releases should be distributed equally to all media outlets. We also see no problem with the EARC recommendation that releases be also distributed to all relevant Members of Parliament."

5.2.7 EARC did not intend that all media outlets should receive the same media releases. The intention was that all local media and all local MLA's should receive media releases that were relevant:

"The Government should ensure that media releases are distributed equally to all relevant media outlets in the State as well as all Members of the Legislative Assembly. This does not mean that a release about a building project in Cairns needs to be sent to every media outlet in the State. It does mean that all media in the local area and all MLAs in the area, should receive it" (EARC 1993, para.4.83).

5.2.8 THE COMMITTEE RECOMMENDS that media outlets and MLA's should have access to media releases relevant to their geographical area and subjects of particular interest to them.

The Ministerial Press Summary

5.2.9 Since early 1990 a weekly *Ministerial Press Summary* has been published, consolidating the media releases of Government ministers. Ministerial Offices supply the text of releases on computer disk to the Premier's Department Library, where they are edited and otherwise prepared for publication. The Premier's Department library indexes these releases and they are available as part of a database to users of that library. Printing and distribution is performed by Goprint who issue the publication free of charge to government party Members and the State, Premier's Department, Supreme and Parliamentary libraries. Costs of printing and distribution are charged to the Ministerial Expenditure Unit of the Treasury Department. The publication and associated database in the Premier's Department Library provide a record of government policy and achievements.

5.2.10 EARC noted that the Premier was considering publishing these summaries for sale, but that that option had not been pursued (1993, para.6.129). EARC recommended that if the general directions of the content and distribution of the Media Information Summary were to remain unchanged, the Premier's Department Library should be relieved from the responsibility for its production and that role be assumed by Goprint (para.6.132). EARC further recommended that Goprint offer this publication for sale at a price that would return its cost of production (EARC 1993, para.6.133).

5.2.11 The Committee does not see any merit in having Goprint adopt this role as *Ministerial Press Summaries* are available to all Members of the Legislative Assembly in the Parliamentary Library and to the general public in the State Library. The Parliamentary Library also has access to most Opposition media releases.

Media Monitoring

5.2.12 In its *Report on Review of Information and Resource Needs of Non-Government Members of the Queensland Legislative Assembly* EARC recommended a system for collection and dissemination of all Members' media releases be implemented and administered by the Parliamentary Service Commission (EARC 1992, p.44). In its current review EARC recommended that the Parliamentary library should monitor the media statements of all Members of the Legislative Assembly and that the Parliamentary Service Commission should implement a simple system for the collection and dissemination of all Members' media releases (EARC 1993, para.5.45 (b) and (c)).

5.2.13 Currently the Parliamentary Library monitors Brisbane television broadcasts, and retains all video segments in which Members appear. The Library cannot monitor television broadcasts outside the metropolitan area but a very few segments from stations elsewhere in Queensland have been acquired for the Library by Members from those areas. Television stations have not shown a great interest in supplying the Library with footage of their local programs. The Library also records a small number of metropolitan radio current affairs programs. These are kept for two weeks but unlike the video segments, are not retained for replay.

5.2.14 As the Parliamentary Library is a depository library under the *Libraries and Archives Act 1967* it is supposed to receive a copy of each edition of every newspaper published in the State. The Library presently catalogues over 120 newspaper titles.

5.2.15 The Speaker informed the Committee that the Library would require another full time staff member, additional recording devices, and some modification to existing equipment to be able to record and retain Members' statements on the other ten or twelve radio stations broadcasting in the metropolitan area alone. Additional indexing and transcription of this material would have significant personnel costs. An alternative suggested by the Speaker would be to use the services of a commercial organisation to monitor the print and broadcast media. However, at present coverage of the broadcast media appears to be limited to the Cairns and Townsville areas. It may also be possible to use the Copyright depository provisions of the *Libraries Act* to persuade television stations to provide off air recordings of state parliamentarians' interviews. The collection and dissemination of Members' media releases could be implemented in conjunction with an extended clippings service, and would in many cases be complementary to it. However, in all cases there would be some resource implications which are difficult to quantify.

5.2.16 The collection and processing of ministerial media releases was described in the previous section (see para.5.2.9). It should also be noted that there is a computer link between the Parliamentary Library and the Premier's Department library, both of which operate PARL-AIRS software. It is therefore possible for the Premier's Department library's ministerial media release database to be accessed directly from the Parliamentary Library. The Committee understands that such a system could be implemented as soon as approval is granted for access to that database. In addition, the Parliamentary Service Commission has plans to network the computers in all Members' offices. This would allow Members to download their own media releases into a suitable database as well as search that database for other Members' releases. With the Parliamentary Library already collecting copies of Opposition media releases it would seem a simple matter to combine this information in a single database that would be available to all Members. However, there is little point in allocating resources to a service that Members may not want or need. The Committee considers that this is a matter for the Parliamentary Service Commission. Regardless, the Committee considers that the Parliamentary Library should receive a copy of ministerial media releases as they are faxed to the media.

5.2.17 THE COMMITTEE RECOMMENDS that

- (a) the Parliamentary Service Commission should assess the demand for a media monitoring service that would provide access to all MLA's media statements; and

- (b) Ministerial Offices should include the Parliamentary Library on their distribution list for faxed media releases at the time of their release.

Denial of Access

5.2.18 Denying certain 'troublesome' journalists access to politicians or government organisations is a crucial strategy to developing a submissive journalistic culture (see EARC 1993, para 4.222; Masters 1992a, p.54; Orr 1990, p.46; Grundy 1990, p.34). In particular, allegations of denial of access to media conferences and the deliberate withholding of information to a particular media outlet were made to EARC during the course of its review. In an attempt to minimise such occurrences in the future EARC recommended that:

- "(a) press conferences and media briefings be available for representatives from all media outlets to attend. Invitations should not just be issued to a select group but media briefings should be open, and seen to be open, to all media outlets; and
- (b) it is improper for the Government to deny or withhold information to one medium where it is available to another" (EARC 1993, para. 4.229).

5.2.19 The submission from Turner supported the recommendation:

"The government should accept that the purpose of briefing the media is to communicate with the people of Queensland. Therefore, to exclude some media representatives from briefings is to deny some of its constituents the right to public information."

5.2.20 MEAA's submission to the Committee also addressed the issue of access to media conferences and briefings:

"There is a distinction between press conferences and media briefings. On subjects of broad public interest, like the State Budget, briefings should be open to all financial members. Governments and oppositions are entitled to brief select journalists or groups of journalists on matters of specific interest to that group. A politician may have a valid reason for aiming the message at the print, electronic, rural, business etc media and that is his or her decision."

5.2.21 While accepting the principle embodied in Turner's submission, the Committee agrees with MEAA that a distinction needs to be made between the practices appropriate for open media conferences and off the record briefings. Koch was clearly aware of this distinction when he posed the following question in his submission to the Committee.

"Surely no thinking person involved in politics, business, sport or whatever would suggest that anybody could not give a confidential briefing to his or her preferred media outlet for whatever reason he or she might so wish."

Who could police any different situation?"

5.2.22 The Committee recognises that invitations to both media conferences and off-the-record briefings can be made at the discretion of the minister, but no journalist should be excluded from media conferences.

5.2.23 The submission from the Department of Environment and Heritage stated that it did not currently invite all media to all events but would not deny access:

"In this day of extensive media outlets it is not possible to invite all media to all events. One function of media communication methods is to target audiences for specific messages. However, present policy is that should the Department be approached for information by a representative not included in the event, the material would be provided. The EARC proposal will not result in either a better service to the media or the improved provision of material to the public."

5.2.24 In his submission Koch stated as a precondition to the recommendation that media conferences and briefings should only be open to current members of the Media, Entertainment and Arts Alliance (MEAA):

"That is because members are bound by a Code of Ethics and non-members have no such commitment. Such a code covers confidentiality, off-the-record or whatever conditions are agreed to at briefings. It is my belief that no member journalists should be excluded from any briefings"

5.2.25 The Committee agrees with the submissions from the Alliance and Koch that only media representatives who subscribe to an ethical standard should have a right to attend Government media conferences and briefings. While some members of the Committee have reservations about requiring union membership for attendance at press conferences and briefings, MEAA is unique in that it combines both industrial and professional practice standards as embodied in its *Code of Ethics*.

Leads to the Media

5.2.26 Informed reporting requires that journalists have reliable sources but when the source has a monopoly on information and there is little resistance from employers, competitors or audience to the views of the source some journalists may become simple mouthpieces for their sources (Tiffen 1989, p.45). The dilemma for the journalist is to maintain the confidence of the source while not simply acting as a conduit for information provided.

5.2.27 The situation is complicated where a journalist has received a selective 'leak' of information, as some sense of obligation is likely to be created. Even where the journalist does not acknowledge an obligation the source of the information may expect some benefit:

"I once had a very cosy relationship with a primary source — a senior Cabinet Minister [in the Bjelke-Petersen Government]. It was something akin to journalistic heaven for a daily roundsman of politics. Over a period my source was persuaded to dictate whole slabs of Cabinet submissions to me over the phone. It was quality material. My editor and I were delighted. My source was delighted. He could influence events within the government. The relationship produced many front page reports over an 18 month period. Our hated rivals in

other newspapers were forced into pathetic follow-up often plagiarising our material. My source became what I call my 'gold seam'. But of course, I blew it. Other sources within my 'gold seam's party informed me of a move against him. The information checked out. Naturally I wrote it, thinking that my relationship with my source would easily survive the bearing of bad tidings. The next day I telephoned for our chat and to my astonishment my 'gold seam' was harsh and cold. 'I've lost all respect for you as a journalist', he said. 'I don't want to talk to you any more.' I protested. 'I wrote the story because it is true', I explained. 'You should take it as a warning', I argued. My source would have none of it. He hung up. The next day I picked up the hated rival newspaper to see a Cabinet leak spread over the front page like a rash. It was a salutary lesson to me. Sources are only so good as long as it benefits them in some way" (Dempster 1993).

5.2.28 Lloyd argues that the existence of this obligation is problematical as most journalists are capable of turning ruthlessly against even the most valued source (1989, p.132 see also Turner 1992, pp.230-241). It may be that journalists do not even recognise an obligation. Regardless, the deliberate manipulation of the news media by leaks was an issue of great concern to Fitzgerald who saw both media and the government as responsible for the situation:

"The media is able to be used by politicians, police officers and other public officials who wish to put out propaganda to advance their own interests and harm their enemies. A hunger for 'leaks' and 'scoops' (which sometimes precipitates the events which they predict) and some journalists' relationships with the sources who provide them with information, can make it difficult for the media to maintain its independence and a critical stance. Searches for motivation, and even checks for accuracy may suffer as a result ...

Instead of 'leaks' becoming an alternative to official information, they become a way of making the media act as a mouthpiece for factions within the Government.

This places an extra responsibility on the journalist. Both the journalist and the source have a mutual interest: both want a headline. Yet if the journalist is so indiscriminating that the perspective taken serves the purposes of the source, then true independence is lost, and with it the right to the special privileges and considerations which are usually claimed by the media because of its claimed independence and 'watchdog' role. If the independence and the role are lost, so is the claim to special considerations." (Fitzgerald Report 1989, pp.141-2).

5.2.29 EARC concluded that much of what are described as 'leaks' are in fact simply the *ad hoc* release of government information or speculation for covert political means. Provided that the information was not otherwise protected from release by lawful means EARC saw no problem with this information finding its way into the public arena but stressed that the covert method of its release meant the media must take responsibility for its subsequent reporting of this information.

Exclusives

5.2.30 Exclusive stories are the pinnacle of journalistic achievement. When such stories are produced as the result of a journalist's initiative and investigation they truly deserve the tag 'exclusive'. All too often, however, exclusives result from the selective release of government information to favoured journalists or media outlets. EARC considered such government initiated exclusives to be undesirable.

5.2.31 The submission from the Alliance addressed the issue of an 'exclusive' from a Government source:

"News gathering is a competitive profession which relies on a wide range of freedoms. It would be impossible to argue that those freedoms should only apply to the news gatherers and not the news makers to deal with as they wished. The two interests should operate with as few restrictions as possible.

But governments, as we state in our general principles, have a responsibility to act in a way that allows scrutiny of their activities. So we accept, indeed insist, that there should be no levelling of the playing field that would make it incumbent on governments, or anyone, to share working journalists' exclusives with others.

At the same time we can see no justification for a practice that would see favouritism applied when two journalists asked for the same information. It should be available to both and believe this is how ... [EARC recommendation 4.229(b)] should be interpreted.

Nor is it appropriate, from a public interest viewpoint, for major policy issues to be announced exclusively through one arm of the media. Such a practice would reduce across-the-board scrutiny and raise the question of what a government was expecting in return for such news 'favours'."

5.2.32 The submission from Turner supported EARC's recommendation that it was improper for the Government to deny or withhold information to one medium where it is available to another (para.4.229(b)). That submission also addressed the perception that this would mean that journalists would have to share information:

"Recommendation (b) should not, however be read as suggesting that once a fact is confirmed to one inquirer it should be released generally to other journalists without inquiries being initiated by those journalists. The reward of a 'scoop' or 'exclusive' for journalists prepared to work hard and perform their role effectively needs to be retained both in the interests of engendering quality journalism and to avoid the sorts of abuses that can occur in the sort of 'pool' approach to media management as practised, for instance, by the US military forces in international conflicts."

5.2.33 The Committee agrees with the Alliance that Government has to be subject to scrutiny by the news media and that information should be equally available to all journalists who request it. However, the EARC recommendations do not require journalists to share their research with others or for the government to provide one journalist's research to another (see also para.5.2.5). Therefore the Alliance's insistence that there should be no sharing of journalists' government exclusives appears to be a misunderstanding of EARC's recommendation. The EARC Report (1993, para.4.80) provides the following example: On 24 April 1991, *The Courier-Mail* published an

'exclusive' article by its senior political journalist, Peter Morley giving the location of the Government's preferred secure landfill site. The responsible Minister at that time, the Hon Mr Mackenroth, informed EARC that he had briefed Morley on the previous day and before the official announcement:

"The reason for this briefing ... was because someone had leaked details of the location of the preferred site the previous week to Mr Morley.

When Mr Morley approached me with the information he had, I asked him to hold the story until I had briefed the local Shire Chairman. If he did this, I told him he would receive the full details to run in his paper on the morning the announcement was made. Mr Morley, having obtained the details of the site, compelled me to bring forward the announcement by one week." (EARC file 009/327).

5.2.34 In reality, a government faced with a potentially critical or damaging story will go into 'damage control' mode, either generally making the information available, or releasing a story with a 'spin' that casts the government in a better light.

5.2.35 The Committee endorses the intent of EARC's recommendations but acknowledges that the practice of the manipulative release of information will not stop merely by issuing guidelines. However, the Committee considers that exclusion from media conferences should be avoided and that any media representative who subscribes to an ethical code should be entitled to attend a media conference. The Committee is particularly concerned that where government information is given to one journalist or media outlet that same information should not be denied or withheld from another if it is requested by another journalist.

5.2.36 THE COMMITTEE ENDORSES EARC's recommendation that it is improper for the Government to deny or withhold information to one medium where it is available to another and recommends that any journalist should be able to attend Government media conferences.

5.3 Accountability in Government Media Relationships

5.3.1 EARC also recommended additional measures to increase government accountability with respect to their relationship with the media. In particular, EARC noted the practice of taking journalists and other representatives of the media to various locations at public expense to announce various initiatives. EARC commented that this was an issue that the Auditor-General could well look into and suggested that such a review could also cover entertainment costs and other costs associated with liaison activities with media personnel at public expense. In any event, EARC considered that whilst these activities are an accepted part of public relations, the Government should be accountable to the public for such expenditure and recommended that details of all expenditure recorded by the Ministerial Expenditure Unit be tabled annually in the Parliament (EARC 1993, para.207(a)).

5.3.2 The Committee notes that it is the practice of the Government to table this information each year in the Parliament in summary form. The EARC recommendation goes further and would require the Treasurer to table the individual claimant certificates. The Committee considers that other processes already in place, such as regular audits by

the Auditor-General and access to the information through FOI legislation, achieve a sufficient level of accountability. For example, the Bureau of Emergency Services records details of all flights including the names of passengers. Records are also kept regarding entertainment expenses, in accordance with the *Ministerial Guidelines For Financial Management of a Ministerial Unit* issued in August 1992.

5.3.3 EARC also recommended that the government should recover the cost of transporting journalists on government aircraft (EARC 1993, para.4.207(b)). A number of submissions to the Committee expressed views on this recommendation and most supported it. Turner noted with approval the US media ethics guideline which states that free travel can compromise the integrity of journalists and their employers. Turner further argued:

"... to ensure an end to the 'cozy' journalism which allowed the abuses identified by Fitzgerald to flourish, media use of government transport facilities such as aircraft should be kept to a minimum. The media should not use government transport when public transport is available. And when, on the rare occasions that public transport is not available, journalists do accompany public officials, the journalists' organisations should be charged a full commercial rate for the value of the transport provided."

5.3.4 The submission from Koch focused on the purpose of using government aircraft rather than whether they ought to be used at all, namely the difficulty of determining the difference between propaganda and genuine news:

"The answer can easily be given if it concerns floods, natural disasters, cyclones, murders, but becomes grey when it is 'good news' for the host. I think the argument is with the cost of the exercise.

This should not be borne by the taxpayer. The decision on newsworthiness of the subject matter should rightly be left with the news media organisation concerned."

5.3.5 The Committee understands that it is normal practice for journalists to travel on Queensland government aircraft at no cost if there is sufficient room. Additional journalists wishing to cover the event have to charter their own transport at their own expense.

5.3.6 The Committee understands that at times the Government has asked media outlets to pay their own way. Similarly, media outlets sometimes arrange their own charter flights:

"This government is very tight and very deliberately manipulative. One instance was a Cabinet meeting in Charleville earlier this year. The government laid on a plane and asked members of the media to pay their own way which is fair enough. We discovered, however, that the plane was going to be deviating — not going straight to Charleville — but going to Cunnamulla where the Premier and the Environment Minister would launch a new national park.

Now this deviation just happened to coincide with a rural crisis meeting in which graziers in the area and the National Party were involved.

So those of us who believed that this particular gathering was worth covering opted out of the government-arranged plane and chartered our own (Morgan

(then Channel 10's senior political reporter), Transcript 7:30 Report ex
Gorrie submission EARC file 009C/7).

5.3.7 The submissions from the Managing Editor, Gold Coast Publications, the Queensland Parliamentary Press Gallery and the Editor-in-Chief, Queensland Newspapers all expressed support for EARC's recommendation. The Managing Editor, Gold Coast Publications, stated:

"Journalists should not be transported to interview locations at public expense. Media outlets should expect to pay their share of appropriate costs if, for instance, a representative travels with the Premier to Canberra for a meeting of the Loan Council or with a Minister to the far north to record local reaction to the opening of a tourism resort."

5.3.8 The Commonwealth Government has published its policy on journalists use of government aircraft in the Ministers' Office Handbook. That policy is that the cost of travel on government aircraft of media representatives and party political advisers is recovered from their employers. Cost recovery is on the basis of the commercial economy class airfare for the travel undertaken (Ministers' Office Handbook March 1993, p.32). The Committee understands that the NSW & WA Governments apply a similar policy.

5.3.9 The Queensland government is unique among the States in that it has its own aircraft. The costs of transporting journalists are therefore not as identifiable as they would be for an individual charter. The Government's Aviation Service was established to provide for emergency services and community operations (Guidelines for the Usage of Queensland Government Aircraft February 1992). The 1993-1996 Queensland Emergency Services Corporate Plan states that the Aviation Service provides emergency aviation services including search and rescue, medical evacuations, law enforcement and counter disaster activities and official transport for Government business. That the transport of journalists to various locations to report on government activities is a legitimate function of the Aviation Service is not in dispute. The question is whether in doing so the Government Aviation Service should subsidise the news gathering of media outlets, many of which are part of large and profitable enterprises. However for the government to charge journalists' employers for the travel undertaken, the Aviation Service may need to be licensed as a commercial operator. The *State Transport Act 1960* requires that an aircraft carrying paying passengers or goods between specified places must be licensed (s.59). Licensees must pay a licence fee but that fee is not to exceed 20% of the gross revenue derived from the licensed service (s.61).

5.3.10 The Editor of the *Cairns Post*, Mr Maguire, commented at EARC's public seminar in June 1992 that it was legitimate for the Government to tell the people what it achieves:

"It needs the press to convey the message. It therefore gathers a group of journalists from all forms of the media with their photographers and cameramen, their technicians, bundles them into a plane and heads off to whatever town or site that is at issue. This I believe, is a legitimate opportunity for the media to see what government is up to, government is paying the bill. Regional daily reporters and photographers are sometimes offered seats on these trips, along with their metropolitan cousins."

Most media groups would not otherwise bother to go; it costs too much money. The costs are prohibitive, the distances too far. The main reason to go there is the occasion that the government itself creates. These trips are essential to backgrounding journalists and mostly do provide legitimate pictures and stories. By taking the media, however, there is still no guarantee to the government that it or the hosting Minister will get good press" (Maguire 1992, p.48).

5.3.11 The Committee notes that such travel for journalists does not guarantee 'good press' but to ensure accountability details of all such flights should be recorded and a summary should be disclosed in the Aviation Service's annual report to Parliament. As with the entertainment expenses, full details of such flights would be available under FOI legislation but the Committee considers that such factual information should be readily available on request (see para.4.1.10). In any case the Committee considers that for ethical reasons a journalist who travels on a government aircraft at no cost should disclose that fact in any subsequent story. If accepting free travel is contrary to a media outlet's policy, then journalists from that outlet should make their own commercial flight arrangements.

5.3.12 The *AJA Code of Ethics* (see Appendix F) requires that member journalists "shall not allow their professional duties to be influenced by any considerations, gift or advantage offered and, where appropriate, shall disclose any such offer". This clause is currently being reviewed by the MEAA Ethics Review Committee, and is likely to be reiterated in the revised code prepared for the association. The discussion paper highlighted the commercial and political conflicts of interest which can attach to such gifts:

"Offers of gifts, trips and hospitality to journalists are common ... Some media outlets have internal guidelines governing conflicts of interest and acceptance of gifts or trips. Some accept such offers on the understanding they are offered to the media outlet, not the individual, and the paper cannot direct either who shall represent the paper on the trip or what he or she writes ... Whether or not employers have policies on such matters, the clear potential of such gifts or trips is for journalists to have, or be seen to have, conflicts of interest" (MEAA 1993, p.7).

5.3.13 Similarly, the Herald and Weekly Times Ltd *Professional Practice Policy* (see Appendix G) requires that any story generated from free travel or other benefit should carry an acknowledgment to that effect (Policy 12.12). The submissions from Queensland Newspapers and Gold Coast Publications both state that it is their policy not to accept free travel. Of the major Brisbane radio and television stations, the ABC confirmed a policy of not accepting free travel, while Channel 7, Channel 10 and radio station B105 stated that each situation was judged on its merits. Channel 9 and radio station 4KQ stated that free travel had been accepted on occasions. The Committee considers that on any occasion when free travel is accepted by media outlets any subsequent story should acknowledge this fact.

5.3.14 THE COMMITTEE RECOMMENDS that:

- (a) the Auditor-General continually monitors entertainment costs and other costs associated with liaison activities with media personnel at public expense;

- (b) the Aviation Service must keep a record of all passengers for every trip when the media accompany a Minister and this is to be open for inspection at all times;
- (c) the media should acknowledge any free air travel in any subsequent story.

5.4 Ethical Standards

5.4.1 Finally, EARC considered that measures to raise ethical standards of media officers would assist in reducing the likelihood of impropriety in government media relations.

5.4.2 EARC examined the role of ministerial media officers and concluded that some partisan activity on their part should be expected. These officers are not employed under the *Public Service Management and Employment Act 1988* and are therefore not subject to the *Code of Conduct for Public Officials* issued under that Act. EARC also examined the appropriateness of the AJA's *Code of Ethics* and the Public Relations Institute's code before recommending that ministerial staff develop a code of conduct that was relevant to their occupational group (EARC 1993, para.5.99(b)).

5.4.3 EARC noted that there was a conflict between the reality of performing the role of a Ministerial Media Adviser and ideals of professionalism as expressed in the AJA *Code of Ethics*:

"... the roles are different. The distinctive obligations of the media adviser clearly warrant a code of ethics and conduct tailored to the contingencies of that role. It may be that a code similar to the Public Relations Institute of Australia's code is more appropriate and relevant" (EARC 1993, p.119).

5.4.4 In its submission the Alliance addressed the uniqueness of the role of government media advisers:

"... the recommendation for agency specific codes is already covered in the requirement of AJA members to adhere to their Code of Ethics or face disciplinary action."

The Commission ... recognises that media advisers are different from other public servants. It would seem incongruous to recognise their uniqueness and yet attempt to impose public sector codes of practice particularly as a satisfactory code already exists"

5.4.5 Although the Alliance submission suggests that ministerial media officers are covered by the overriding principles of the *Code of Ethics*, the detail at particular clauses may present irreconcilable difficulties for individuals who are also Alliance members. The Committee agrees with EARC that the AJA's *Code of Ethics* is not appropriate for media advisers. In any case Ministerial Media Advisers are not bound by it unless they are members of the MEAA. Regardless, it is doubtful that Media Advisers would seriously consider that they were bound by the AJA *Code of Ethics* in their role. For example that *Code* includes the requirements that:

"Respect for truth and the public's right to information are over-riding principles for all journalists. In pursuance of these principles journalists commit themselves to ethical and professional standards. All members of the Australian Journalists' Association engaged in gathering, transmitting, disseminating and commenting on news and information shall observe the following Code of Ethics in their professional activities. They acknowledge the jurisdiction of their professional colleagues in AJA judiciary committees to adjudicate on issues connected with the Code."

1. *They shall report and interpret the news with scrupulous honesty by striving to disclose all the essential facts and by not suppressing relevant, available facts or distorting by wrong or improper emphasis;*
- ...
4. *They shall not allow personal interests to influence them in their professional duties;*
- ...
10. *They shall do their utmost to correct any published or broadcast information found to be harmfully inaccurate"* (AJA *Code of Ethics*).

5.4.6 EARC's Public Seminar in June 1992 was told that the role of a Ministerial Media Adviser would make it inappropriate for them to subscribe to this kind of code:

"... the progress of the media is carefully studied by an array of monitors and spin doctors who wander about galleries seeking to put people on to stories, or persuading them that they have the wrong angles, or ridiculing them for thinking that this is a story. And there is also some conscious attention given to influencing the process of caucusing that most journalists gathered in groups inevitably engage in."

Can one put controls over this sort of behaviour, write regulations for how Ministerial press secretaries do their jobs? Hardly. It is the very stuff of politics. I do not even believe that journalists can honestly claim that the political press secretary is capable of subscribing to their professional association, or capable of being caught by their Code of Ethics" (Waterford 1992, p.12).

5.4.7 Further, it appears that the Federal Executive of MEAA may also agree that the *Code of Ethics* is not appropriate for all members. In July 1993 MEAA established a committee, chaired by Father Frank Brennan, to review this Code. In an issues paper released in December 1993, the review committee noted:

"The MEAA membership includes journalists who work in public relations. Are they 'engaged in gathering, transmitting, disseminating and commenting on news and information'? If so is the code appropriate to them? Can it be enforced consistently in relation to their work — say the news releases prepared by a media adviser to a politician — in the same way as it applies to journalists doing the more traditional functions? ... [The Code] is intended to prevent a reporter who supports, say the Liberal Party, from allowing that personal preference to influence her when she writes about politics. But personal political preferences are a desirable influence on the professional duties of a ministerial media adviser."

And 'suppressing relevant available facts' ... is sometimes part of the job (MEAA 1993, pp.4-5).

5.4.8 Ministerial Media Advisers are both partisans and advocates and requirements for journalistic balance and impartiality are simply not applicable to their role. Craits Hippocrates, lecturer in journalism at QUT, has studied media officers in Queensland and found that although most identified with being journalists rather than public servants, there was a need for a different code for information officers and press secretaries (see EARC file 009S/3). The Committee would be surprised if Ministerial Media Advisers considered themselves bound to provide a politically balanced account or to conform to the AJA Code of Ethics and *'report and interpret the news with scrupulous honesty by striving to disclose all the essential facts and by not suppressing relevant, available facts or distorting by wrong or improper emphasis'* (AJA Code of Ethics, item 1).

5.4.9 In a submission to EARC Gorrie suggested that ministerial media units should be modelled on EARC's Public Information Office which operated on the AJA's Code (EARC file 009C/7). Such a suggestion does not recognise the reality of the role of a Ministerial Media Adviser.

5.4.10 Similarly the Committee recognises that media officers and Ministers would sometimes have difficulty in always meeting EARC's requirement that:

'elected and appointed officials provide information honestly and in good faith when they provide briefings to the media no matter what form the briefing takes' (EARC 1993, para.4.12.6).

5.4.11 The Committee concurs with submissions on this recommendation that recognised its desirability but which considered that it would be very difficult to achieve in practice in light of the acknowledged partisan nature of the media adviser's role. For example the Editor-in-Chief of Queensland Newspapers, Mr Jack Lunn, told the Committee:

'Of course we would like elected and appointed public officials to tell the whole truth 100 per cent of the time and 'in good faith'. But I wish the Parliamentary Committee for Electoral and Administrative Review the best of luck with this one.'

5.4.12 Journalists expect a favourable 'spin' will be put on government information released by media advisers and Ministers and the Committee considers that journalists must exercise their professional skills to obtain the 'essential facts' and reveal distortions and omissions on the part of government. Notwithstanding the difficulty that media advisers would frequently experience adhering to the AJA Code of Ethics (item 1) or EARC's recommendation at para.4.126, the Committee does not condone the practice of lying as in providing false information in briefings or media conferences on the part of elected or appointed officials. The Fitzgerald Report addressed this problem and recommended that the CJC undertake a review of:

'... the obligation of public officials to be accountable for their activities and whether that obligation should be reinforced by the prescription of criminal offences constituted by:

- (a) *the holder of any public office lying in connection with that office'* (Fitzgerald Report 1989, p.378 rec.9).

Pending the CJC review, this matter should be addressed by the various groups of public officials in the development of their respective Codes of Conduct (see PCEAR 1993).

5.4.13 The Committee agrees with EARC that the AJA Code of Ethics is not appropriate and that public officials in a media role, particularly Ministerial Media Advisers, should develop their own code. This Committee in its Code of Conduct for Public Officials Report has previously stated that *'it is of paramount importance that codes appropriate to the specific circumstances of the individual public sector units are developed. The Committee believes that the only realistic way in which this can be achieved is through a more devolved approach which focuses on the development of agency-specific codes'*. Hence this Committee recommended that:

- (a) agency-specific codes of conduct derived from and consistent with the ethical obligations endorsed by the Committee should be developed by all units of the public sector;
- (b) the purpose of such codes should be to describe the standards of conduct to apply to public officials in the performance of their official functions; and
- (c) provision should be made for variations in the application of codes to specified public officials or classes of public officials (PCEAR 1993, para.4.4.55).

5.4.14 Clause 18 of the Committee's draft Public Sector Ethics Bill was intended to give effect to those recommendations.

5.4.15 THE COMMITTEE recommends that:

- (a) ministerial staff develop a code of conduct that is relevant to their occupational group; and
- (b) MEAA develop a code for members who are employed as government media advisers that adequately addresses the ethical issues particularly relevant to their role.

"The Government [Party] Members considered the New Zealand guidelines and the Auditor-General's experience in New Zealand in implementing them, but came to the view that the result in terms of advertising's primary purpose of catching attention and selling a message was in fact counterproductive, in that the New Zealand Auditor-General produced advertisements which were as informative as an encyclopaedia and about as exciting to read" (1993, p.1x).

6.1.6 In evidence to the NSW Committee both the Executive Director of the Advertising Standards Council and the Federal Director and CEO of the Advertising Federation of Australia expressed reservations about the effectiveness of the advertisements produced under that New Zealand Auditor-General's guidelines. The Executive Director of the Advertising Standards Council commented:

"... My own personal view is that ads in that particular form are deadly dull and boring and are not likely to be read by most people" (Harcourt, quoted in NSW 1993, p.21).

6.1.7 The Federal Director of the Advertising Federation of Australia commented that those advertisements failed to grasp the nature of advertising and what it does:

"It would be very easy to take comments such as those made by the Auditor-General (of New Zealand) as quite farcical and totally failing to grasp the nature of advertising and what it does ... To be effective advertisements must be seen or read and also there must be some message taken away either one time or more, usually after continued exposure. The greatest set of words on poor information is absolutely on no point at all if the person to whom it is directed does not notice the advertisement, let alone read some or all of it" (Cormack, quoted in NSW 1993, p.21).

6.1.8 The Committee considers that presentation principles should be less prescriptive than in the New Zealand model but should still require accurate, honest and informative advertising. The Committee also supports aspects of the British model which requires that advertising material be non party political in content, tone and presentation.

6.1.9 Overall the guidelines should however be such as to enable an appropriate balance to be achieved between information and a creative presentation that evokes the desired emotion or response. The submission to EARC from the Queensland Watchdog Committee suggested that such an appropriate balance was important:

"The public is entitled to accurate and factual information in the government advertising for which it pays. That is not to say ads need to be dull or unattractive. The question is where to strike the balance. The recent Southbank ads, for example, were all image and little substance. As such it was an unjustifiable use of taxpayers' money. On the other hand the powerful imagery of the mid-1980s AIDS TV commercials could be justified for their emotive impact on a public unaware of the risk it was facing" (EARC file 009S/23).

6.1.10 The submission from the Department of Minerals and Energy commented that EARC's draft guidelines were sound but that some consideration should be given to the provision of specialist information. The Committee agrees and has added the dissemination of specialist or scientific information to the list of suitable uses of government publicity and advertising.

6 GUIDELINES FOR INFORMATION CAMPAIGNS

6.1 EARC's Suggested Guidelines

6.1.1 The EARC report provides an overview of the nature of guidelines in other jurisdictions and the procedures adopted in Queensland and concludes that more comprehensive guidelines would be of use for departments and agencies in developing their information campaigns and communication strategies. EARC made a number of specific recommendations on the content of guidelines (see EARC 1993, paras 7.112; 7.118; 7.119; 7.127; 7.159; 7.179; and 6.104) and also developed a set of draft guidelines for use by agencies in managing government publicity campaigns and campaign strategies (para. 7.64) see Appendix D.

6.1.2 The Committee has reviewed EARC's draft guidelines and considers that they are generally satisfactory but with the following exceptions. First, the Committee considers that EARC's draft document contained a mixture of principles and procedural guidelines. To make the document more serviceable it is proposed to divide the document into two parts: the first containing a clear statement of principles and the second containing more detailed guidelines indicating how the principles might be implemented as recommended by the Department of Family Services and Aboriginal and Islander Affairs in their submission to the Committee. As that Department pointed out in its submission the detailed guidelines proposed by EARC include a restatement of guidelines already developed and which apply across the public sector eg the *Public Finance Standards*.

6.1.3 The Department of Family Services' submission expressed concern that there was no statement of a general principle that recognised the needs of minority groups. The Committee considers that the following amendment to EARC's general principle 11(c) addresses the concerns raised by the Department:

"Sensitive. Presentation should be sensitive to the dignities, needs and values of the groups to whom it is directed. Presentation, wherever possible, should avoid the use of sexist or racist language."

6.1.4 Second, in relation to the general principles, the Committee considered EARC's directive that Government publicity and advertising should be objective and balanced and "... should avoid ill-advised emotive content" to be too prescriptive. A submission from the Department of Transport argued that government advertising designed to change behaviour, notably drink driving, should have a high impact and may need to be emotional rather than objective and balanced.

6.1.5 EARC's recommendation that advertising should be objective and balanced was based on the New Zealand Auditor-General's guidelines which required content to be fair, honest and impartial as well as accurate, truthful and factual. The Committee noted the views of the NSW Legislation Committee on the Government Publicity Control Bill 1992 that favoured the British rather than the New Zealand guidelines for government publicity. The Committee shares the concern expressed by the NSW Committee that advertisements produced under the New Zealand Auditor-General's guidelines fail to communicate because they are unlikely to be read:

6.1.11 The submission from the Department of Transport agreed that the guidelines were generally workable for government departments but questioned their application to Government Owned Corporations. EARC's draft guidelines relate only to government advertising and publicity which is conducted at public expense. The Committee understands this term to mean expenditure from the Public Account and therefore to exclude such corporations.

6.1.12 The Committee regards the following to be important principles to be followed by departments and agencies conducting publicity, advertising or communications at public expense:

All members of the public have equal rights to access comprehensive information about government policies, programs and activities which affect their entitlements, rights and obligations, except where access to this information would represent a breach of government responsibilities. In this respect the presumption should be that information is freely accessible unless specifically exempt from disclosure under the *Freedom of Information Act 1992*.

Government may legitimately use public funds for publicity and advertising to explain policies and programs, to fulfil statutory requirements for information provision and to inform members of the public of their entitlements, rights and obligations.

The role of government information provision is the facilitation of the processes of government and the well-being of the public. Information campaigns should be directed at the provision of objective, factual and explanatory information. Information campaigns should not intentionally promote party-political interests.

Information provision through publicity and advertising is an integral part of the development and management of government programs. Communication is an integral part of public policy development.

Government publicity and advertising should deal only with matters where the government has direct responsibility. Types of suitable uses may be to:

- (a) inform the public of new, existing or proposed government policies, as well as revisions of policies;
- (b) inform of government services to which the members of the public have a legitimate entitlement; as well as new entitlements or revisions to entitlements;
- (c) inform the public of their legal obligations, as well as new or proposed obligations or revisions of obligations;
- (d) disseminate specialist or scientific information;
- (e) encourage social behaviour generally held to be in the public interest (for example the avoidance of drink-driving); and
- (f) facilitate accountability to the public through the provision of information upon performance of government.

Government publicity and advertising should be presented in such a manner that it provides information and is:

(a) *Accurate and Honest.* Presentation should contain only claims which can be substantiated, which are accurate, and which are free of deliberate exclusion or misrepresentation. Comment or analysis should be identified as such.

(b) *Fair and non Party Political.* Material should be objective and not attack persons or groups of persons. Content tone and presentation should not be party political. It should avoid party political slogans and should not directly attack the policies and opinions of opposition parties or groups. Opinion should be easily distinguished from fact. Appearances or representations of ministers can be a sensitive issue and should be approached accordingly.

(c) *Sensitive.* Presentation should be sensitive to the dignities, needs and values of the groups to whom it is directed. Presentation, wherever possible, should avoid the use of sexist or racist language.

(d) *Loyal.* Presentation should comply with the law.

6.1.13 The Committee considers that the remainder of EARC's draft guidelines set out how those principles are to be applied and represent the application of accepted 'best practice'. The Committee generally agrees with EARC's proposals but with two exceptions. First EARC proposed that every piece of promotional or advertising material should include a clear attribution to the relevant accountable officer and the agency responsible for it (EARC 1993, para. 7.112(b)). The Committee does not regard it as important for government advertising to contain an attribution to the relevant accountable officer so long as the department, organisation or agency is identified. Second, EARC's suggested guidelines stated that advertisements or other promotional material might carry the designation 'Queensland Government' and/or the state coat-of-arms but that these should not be used in conjunction with the name of the Premier or the political party of the Government. The Committee can see no reason to exclude the name of the Premier from advertising or promotional material.

6.1.14 Finally, the Committee considers that the guidelines amended as discussed would be enhanced by the inclusion of EARC's recommendations on pricing policy.

6.1.15 The Committee's suggested principles and guidelines are attached as Appendix D.

6.1.16 **THE COMMITTEE RECOMMENDS adoption of the guidelines in Appendix D for the production of all promotional or advertising material paid for from the Public Account.**

6.2 Additional Guidelines

6.2.1 EARC proposed additional guidelines for particular aspects of information campaigns related to the use of market research and communications designed for Aboriginal and Torres Strait Islanders. These will be discussed in turn.

Market Research

6.2.2 EARC encountered considerable difficulty in determining the extent of departments' use of market research and concluded that many departments would not

know of the existence of much of that research. EARC considered that a centrally compiled list of such research would be a useful resource for all departments. EARC also recommended that the Information Policy Board develop guidelines regarding the purchase and accessibility of market research:

"... Such guidelines should include the following principles:

- (a) no market research should be undertaken unless there is an established and documented need;
- (b) market research undertaken by government departments should be included in a central register kept current by the Information Policy Board with regular notifications of research issued to departments;
- (c) market research undertaken by government departments and agencies should be available to the public through FOI;
- (d) the Information Policy Board should be required to Gazette additions to its Register; and
- (e) market research should not be undertaken by government departments or agencies if it involves research concerned with voting intentions; or if it is intended to promote the government." (EARC 1993, para. 8.193).

6.2.3 The submission from the Market Research Society of Australia (Queensland Division) agreed in principle with EARC's recommendation. However, in relation to the central register of market research the Society was concerned that the intellectual property in market research proposals should be protected. Similarly, the Society was concerned that the identity of respondents to market research questions should be protected through FOI. The Committee notes these concerns but is of the opinion that a central register should simply record the existence of market research commissioned by departments so as to facilitate its possible use by other agencies. The existence of such a register should not affect the important questions of the protection of intellectual property rights or the anonymity of informants to such research. The Committee considers that it is appropriate for the Premier's Department to be responsible for the guidelines and the central register, however the Information Policy Board may not be the appropriate unit. This issue will be addressed later in the Report.

6.2.4 THE COMMITTEE ENDORSES the intent of EARC's recommendations in relation to a central register of market research.

Cultural Diversity

6.2.5 All government agencies and departments exist to provide services to the citizens of this State but Queensland has a culturally and ethnically diverse population. This means that the State's public administration must be able to communicate with Queenslanders of all backgrounds, including people of Aboriginal and Torres Strait Islanders cultural backgrounds. EARC found during its review that although some departments had developed strategies to communicate with such groups, the Government had no overall policy on the issue. This was contrasted with the Commonwealth Government's policy.

6.2.6 The Commonwealth Government's Access and Equity Strategy began in 1985 as a result of a policy response to improve services to migrants of non-English speaking backgrounds. Since 1989 the Commonwealth has expanded the Strategy to include all groups who face barriers of race, religion, language or culture. The core of the Strategy has been a set of formal requirements which guide government departments in adjusting their programs and services to ensure that clients who may face such barriers have the same access to their entitlements as do other Australians (H of R 1993, p.ix). Often, problems of access are related to a lack of information or to information that is presented inappropriately. As one strategy to overcome this Commonwealth departments are requested to allocate a minimum of five per cent of campaign advertising funds to advertising in the ethnic press. EARC recommended:

"... that the Department of Family Services and Aboriginal and Islander Affairs formally develops publication guidelines for departments which accommodate the needs of non-English speaking persons. These guidelines should indicate which publications should be reproduced in a language other than English." (EARC 1993, para. 6.37).

6.2.7 EARC also recommended that the Information Policy Board develop policy/guidelines for all agencies directing information to Aboriginals and Torres Strait Islanders and that all agencies address the issue of cultural diversity in their information plans (EARC 1993, paras. 8.320-321).

6.2.8 The Royal Commission into Aboriginal Deaths in Custody also stressed the importance of government officials understanding cultural issues. That Commission recommended that all employees of government departments and agencies whose work involves the delivery of services to Aboriginal people should be trained to appreciate the traditions and culture of contemporary Aboriginal society (rec 210). In a recent inquiry into the implementation of the Access and Equity Strategy, a House of Representatives Committee noted that Aboriginal and Torres Strait Islander people still have considerable difficulty in gaining access and equity because of the design and delivery of programs and services by many government departments (1993, p.31).

6.2.9 The Committee regards EARC's recommendations for guidelines as appropriate but considers that this task should be the responsibility of a single agency. In view of its other policy responsibilities for non-English speaking people the Committee considers that the development of guidelines for such matters should be the responsibility of the Department of Family Services and Aboriginal and Islander Affairs.

6.2.10 THE COMMITTEE RECOMMENDS that all agencies address the issue of cultural diversity in their communication strategies. To assist this process the Department of Family Services and Aboriginal and Islander Affairs should develop:

- (a) publication guidelines for departments which accommodate the needs of non-English speaking persons. These guidelines should indicate which publications should be reproduced in a language other than English; and
- (b) guidelines for all agencies directing information to Aboriginals and Torres Strait Islanders.

6.3 Availability of Publications

6.3.1 The *Libraries and Archives Act 1988* (s.62) requires all state government agencies to supply to the State and Parliamentary libraries a copy of all material published for the public. The requirement applies to printed, electronic, audio and video information. In 1991 and again in 1992 the State Library of Queensland attempted to develop a catalogue of state government publications and requested information from each department as to the publications for which they were responsible. The Administrative Services Department examined the information provided to the State Library and revealed serious deficiencies in departmental knowledge of the range and costs of their publications. To address this deficiency the Administrative Services Department prepared a submission to Cabinet proposing that the Government Information and Intellectual Property Consultative Committee (GIIP), an inter-departmental committee set up under the control of the Information Policy Board, develop a strategy for a central publications register (see EARC File 009/577). A working group of the GIIP was subsequently established but has not yet reported to the GIIP Committee. The Committee understands that the working group supports the creation of the register in an electronic form supported by responsible officers in each department but with ultimate responsibility belonging to the State Library.

6.3.2 Regardless of the outcome, the *Freedom of Information Act 1992* placed a statutory responsibility on State departments and public authorities to publish an up-to-date 'statement of affairs' before 19 August 1993. Local authorities had until 19 February 1994. This statement must list separately the types of documents available for purchase from the agency and the types of documents available from the agency free of charge.

6.3.3 If these statements of affairs have been compiled accurately they will provide a comprehensive listing of all government publications. The Committee considers that while a central register may seem to represent unnecessary duplication it will serve a useful function as indicated below.

Regional Outlets

6.3.4 Under the Queensland Government Agent Pilot Project (QGAPP) 13 Queensland Government service offices have recently opened in small and remote communities. These offices operate as agencies of all government departments which have decided to be part of the project. In those departments QGAPP offices are on the distribution lists for all publications. When the central register discussed above becomes available, the network of Goprint and QGAPP offices would be in a position to provide access to the catalogue of such publications thereby creating access to a far broader range of publications than through the existing Goprint mail order service.

6.3.5 EARC endorsed this process but recommended the establishment of more regional outlets for government publications including QGAPP offices and use of departmental regional offices, Commonwealth Bookshops, private newsgroups and bookshops (EARC 1993, para.6.174). The Committee agrees, the use of trade, professional and community publications to advertise the availability of government publications to targeted groups would also prove effective.

7 IMPLEMENTATION OF GOVERNMENT COMMUNICATION STRATEGIES

7.1 Communication Strategy

7.1.1 EARC recommended that the *Queensland Cabinet Handbook* be amended to emphasise the importance of public communication in the development and implementation of public policy (EARC 1993, para.8.118). EARC also recommended that:

- (a) all agencies should have a communications strategy;
- (b) agency communication strategies should be based on the public's right to know; and
- (c) agency policies should incorporate communication strategies into the conceptual, development and implementation stages of the policy programs (EARC 1993, para.8.157).

7.1.2 The submission from the Department of Environment and Heritage supported this recommendation in principle: "Efforts should be made to encourage departments to adopt a communications strategy which is appropriate for its operations and based on the premise of public information".

7.2 Central Coordination

7.2.1 The major issue in relation to the implementation of communication strategies is the extent of centralised coordination and/or control that should be applied. EARC noted that there were two agencies within government that played a role in information policy development and coordination. The first of these, the Media and Information Service (MIS) of the Department of Administrative Services, was established as a business unit in August 1990 with a staff of more than 95 people, the majority of whom were in the three main areas of operations: the Marketing and Communications Group, the television facility TSN 11 and the Photographic Group. Since then it has attempted to take on the functions of a policy and advisory body and has generally attempted to find ways of rationalising and coordinating existing government public relations facilities. Two Cabinet submissions were prepared along these lines in 1991 but did not proceed due to a lack of government support for assigning such a comprehensive role to MIS. One submission proposing the establishment of a Government Information Service was twice discussed by Cabinet but deferred (PSMC 1993, p.152).

7.2.2 The second of these agencies was also created in late 1990 but as a result of a Cabinet commissioned study on the state of government information technology. The *Final Report of the Information Technology Review* recommended that an Information Policy Board (IPB) be established within the Premier's Department responsible for policy, planning and co-ordination for the Government-wide information resource. A further recommendation required the IPB to examine the possible rationalisation of Government's radio and television networks. An Interim Board was established soon

*Therefore my overall comment is that the issues under consideration here are outside the scope for which the IPB was established and is a skill-set for which the IPB is not staffed in a specialist sense. It is not an area in which we presently have particular knowledge, nor are undertaking, nor have plans to undertake any such activity.**

7.2.6 The submission from the Administrative Services Department agreed that if the Information Policy Board was to take over the role of a central office for information and advertising it would represent a significant change in direction:

"While the Board itself may be the appropriate body for overseeing all information and communication policy development, the expertise to formulate and administer such policy currently rests within ASD."

7.2.7 Shortly after the release of EARC's report the Public Sector Management Commission (PSMC) concluded a review of the Administrative Services Department. The PSMC recognised a role for ASD with respect to government information and recommended the creation of a new unit within ASD; the Government Services Group. This group consisting of a Building and Services division is to co-ordinate the non commercial services of the ASD including those of the former Media Information Service. The role of the Services Division was set out in the PSMC report and includes:

*Services Division

- Policy Development and Advice
 - coordination of printing and copying capacity
 - Information access and charging
 - Vehicle fleet management; vehicle usage
 - Broadcasting, videoconferencing, photographic services
- Policy Regulation
- Public Interest Activity Management
 - Production of general information publications
 - Production of State Government contact directory
 - Administration of State Government press clipping contract
 - Administration of Remote Commercial Television Service subsidy
 - Funding of reserved printing services
 - Maintenance of communications services' registers of suppliers
 - Government broadcasting and photographic services
 - Whole of government promotional displays, eg RNA
- Secretariat(s) Support/External Liaison (SPC; GIIP; GIRC; IPB; TSCC; etc)
- FOI and Legal Branch
- Department Finances* (PSMC 1993, p.59).

after but was replaced by a permanent Board in February 1992. In January 1991 the IPB's Television Advisory Group in conjunction with the PSMC commenced an investigation of the possibility of the rationalisation of television, video film production and still photography. A comprehensive report was completed in August 1991 and endorsed by Cabinet on 10 February 1992. The implementation of that report resulted in the MIS's television facility TSN 11 gaining control of nearly all audio-visual equipment, including training equipment.

7.2.3 In MIS's submission to EARC it argued the need for the creation of a central agency to coordinate government information:

"... the lack of co-ordination of government information is not a new problem. However, it has become exacerbated as marketing and communications areas within departments have sought guidelines and directions which enable them to serve their departments. The introduction of program management and the consequent greater autonomy given to managers has made it almost impossible for some departmental marketing and communications areas to co-ordinate within their own departments. To achieve better management practices, program managers are now focused on achieving the goals of their departments. However, this focus on program delivery, if it is not put in the context of government policy, appears fragmentary to the public. The moving of service delivery to the point of service need (eg regionalization), further fragmenting government services already fragmented into programs, also places greater emphasis on the need for coordinating communication and information" (EARC File 009S/7).

7.2.4 EARC agreed on the need for such coordination but recommended that the Information Policy Board (IPB) should coordinate agency's communication activities but at the discretion of the departmental accountable officer (EARC 1993, paras.7.137 and 7.138). Later in the report, EARC also recommended that the IPB take over the role of a central office of information and advertising and that its terms of reference be expanded to include the provision of a central reference point for all information and policy development. EARC also recommended that the IPB's secretariat be drawn from the Premier's Department and that the IPB should circulate proposed standards and receive input from departments and agencies before finally formulating policy (EARC 1993, para.8.81).

7.2.5 The submission to the Committee from the Executive Director of the IPB commented that the focus of EARC's Review was on a different area, namely media, publishing and communications in a journalistic sense:

"... appears to be more to do with who communicates with the public, how and in what form. Correspondence, advertising and publications all appear to be included.

... this is quite a different area of interest compared to that for which the IPB was established. Our information management interest relates to data and systems to be used by Agencies in delivering their corporate and business plans to the Government and the Public. We are interested in intellectual property, Crown copyright, data ownership and asset acquisition, particularly to ensure a free flow of data within Government, to avoid duplication of effort and that the Government's information asset is protected in a property sense where this is appropriate.

messages. Fears of censorship need not be entertained. There are other aspects of communication over which central control could be exerted — choices of media, size of budget, evaluation processes, timing of campaigns, etc. Such limitations need simply be spelt out in terms of reference of any central body" (Hazlehurst, EARC file 009/805, pp. 65 and 67).

7.2.14 EARC recognised the danger of too much control and considered that:

"Involvement of a central agency should not be intrusion but rather should be directed to the provision of advice" (EARC 1993, p.178).

7.2.15 EARC subsequently recommended that involvement of the Information Policy Board in agency information dissemination activity be at the discretion of the accountable officer, but accountable officers should in any event notify the IPB of proposed campaigns (EARC 1993, para.7.138).

7.2.16 The Committee considered whether the other central agencies (Premier's Department, PSMC or Treasury) could perform the role envisaged by EARC for the IPB. The Department of the Premier, Economic and Trade Development "supports the Premier's leadership of the State through the provision of quality advice, with a whole-of-government perspective" (Annual Report 1993, p.5). The Administration Section of that Department arranges the advertising contracts for all of government.

7.2.17 The PSMC's role is completely different in that it is directly responsible to the Premier for all matters relating to the administration of the *Public Service Management and Employment Act 1988*, the *Public Sector Management Commission Act 1990* and the *Equal Opportunity in Public Employment Act 1992*. The PSMC's main functions are to:

- (a) conduct investigations into units of the public sector to enhance client service delivery;
- (b) develop, issue and monitor management and personnel systems and standards; and
- (c) ensure equity in employment and the application of the merit principle (Annual Report 1993, p.4).

7.2.18 Finally, Treasury's role is to improve the management of resources and to advance the State's economic well-being for the benefit of the community. More specifically, Treasury's goals are to:

- (a) raise revenue in an efficient, effective and equitable manner;
- (b) improve the management of the Government's financial resources;
- (c) advance the performance of the Queensland economy; and
- (d) improve public sector financial management standards, systems and accountability (Annual Report 1993, p.i).

7.2.19 The Committee considers that the PSMC and Treasury both perform substantially different functions to the one envisaged and are therefore unsuitable. The Committee

7.2.8 The PSMC recommended that the operations and production activities of the MIS be disbanded, restructured and renamed Communication Services and be required to operate on a fully commercial basis for 1994-95.

7.2.9 The PSMC review noted that the IPB regarded EARC's recommendation as inappropriate 'on the basis that its policy development function should not be confused or combined with operational activities'. In view of IPB's reluctance to expand its role the PSMC indicated that it "supports location of co-ordination functions to the extent specifically approved by the government in ASD" (PSMC 1993, p.152).

7.2.10 However, the remaining role recommended by the PSMC for the proposed Government Services Group with respect to policy development, co-ordination and production of government information and communications is quite limited and restricted to relatively routine information tasks.

7.2.11 The coordination and policy development role assigned by the PSMC to the Government Services Group in ASD therefore falls far short of the role envisaged by EARC for the IPB and while the Committee supports the provision of a more limited role to ASD, the need still exists for co-ordination as identified by EARC.

"Currently in Queensland, departments have discretion as to how information activities are conducted with each CEO responsible for those activities. From the whole-of-government perspective this situation naturally holds potential for contradiction and inefficiency. The [Hazlehurst] study addressed this possibility:

... individual departments may pursue their specific concerns or interest with insufficient regard for broader implications of their messages and actions. Planning needs to take place centrally, to allocate resources, and to develop strategies for issues that cross departments. It needs to ensure that government is not trying to communicate competing or contradictory messages.

... To continue with the present system, in the light of the problems that are identified in this report, does not appear a defensible option." (EARC 1993, para.7.133).

7.2.12 The Public Relations and Media Office established in the Premier's Department under the Bjelke-Petersen Government was disbanded because the incoming Government had perceived that it had evolved into a powerful unit that promoted the government and controlled all government communications.

7.2.13 Hazlehurst addressed the issue of the dangers inherent in a central body:

"Inherent in the idea of central control is the possibility that a central perspective may dominate. This may be good or bad. A central perspective charged to improve communication practices in Queensland can hardly be other than an improvement, although it may not be welcomed by many departments. Indifference or hostility from established interest should not be mistaken for meaning that the idea is wrong. Indeed, a proposal that excited no protest would almost certainly be unlikely to make improvements.

... Central power is usually feared when it has control over messages. While recognising that the effect of what is said is not conditioned solely by the overt message content, there is no inevitability that a central body need have power over

accepts the argument put forward by the IPB that any extension of its current role would require additional resources and personnel with appropriate expertise. In any case EARC recommended that the secretariat for the IPB be drawn from the Premier's Department.

7.2.20 When the Information Policy Board was established in 1990, it was recommended that the PSMC evaluate its effectiveness after three years. This evaluation is about to be combined with the regular program evaluation as required by the *Financial Administration and Audit Act 1977*. The objectives of the review are to assess the IPB's performance to determine whether:

- (a) the role of the IPB is appropriate;
- (b) the identified goals and strategies are appropriate;
- (c) goals are being achieved efficiently and effectively;
- (d) resources are sufficient to fulfil the designated role;
- (e) services provided to clients meet their needs; and
- (f) relevant recommendations of the 1990 Review of Information Technology are being implemented.

7.2.21 The PSMC's review will consider all aspects of the Board's operations and, if considered necessary, will recommend alterations to its role, goals and strategies. The PSMC's review is therefore timely.

7.2.22 Because of its position in government administration the Committee considers that the Premier's Department is the most logical place for a central unit to coordinate government communication strategies and administer the information campaign guidelines. The return to the Premier's Department of such a central function need not be a cause for concern as it does not imply that it will have direct control over government messages. As suggested by Hazlehurst, central co-ordination should limit contradictions in government communications and result in a more efficient allocation of resources. Limitation on the central authority should be spelt out in the terms of reference of such a unit.

7.2.23 The Committee considers that a decision regarding the most appropriate unit within the Premier's Department for co-ordination and policy development of government communications and information campaigns should be made following the conclusion of the PSMC review of the IPB.

7.2.24 THE COMMITTEE RECOMMENDS that the Premier's Department should be responsible for the co-ordination and policy development of government communications and information campaigns.

8 ACCOUNTABILITY OF MEDIA UNITS AND MINISTERIAL MEDIA OFFICERS

8.1 Reporting Expenditure

8.1.1 EARC commenced its initial review of the operation of Government media and information units from information contained in departments' annual reports. To supplement this information EARC wrote to the Premier seeking details of all payments made by departments to public relations and advertising agencies or consultants for the period 1989/90 and 1990/91 (EARC 1993, para.8.10). It was anticipated that this information would be comparable with the information tabled in the Parliament since 1973 in the form of a *Return to Order*. However, the Premier responded that the details were no longer available in the format of the *Return to Order*.

8.1.2 Indeed the Premier's Department encountered considerable difficulty in collating the requested information and eventually told EARC that because the practice of assembling spending details for inclusion in the *Return to Order* had been discontinued this information was not readily retrievable (see EARC File 009/396). EARC expressed some scepticism that departments could have such difficulties in assembling this information as a 6 July 1991 amendment to the *Public Finance Standards* required departments and agencies to include such expenditure in their annual reports.

8.1.3 Departments' annual reports for 1992/93 generally complied with the requirements of the *Public Finance Standards*, the Departments of Primary Industries, Education and Family Services being the only exceptions. Regardless, the *Public Finance Standards* only required departments to report aggregate expenditure on particular categories of consultant unlike the *Return to Order* system under which departments were required to state the names of the recipients and the amounts separately received. EARC found this present level of disclosure to be inadequate and recommended that the *Public Finance Standards* be amended to require:

- (a) *annual reports to include details of all expenditure on consultancy services commissioned for the purposes of information campaigns. These details should include the names of consultant organisations and individuals, a description of the purposes for which consultancy services have been commissioned, and the costs of those services; and*
- (b) *inclusion of details of promotion campaigns in annual reports of government agencies. These details should include a description of the nature and purposes of each individual promotional campaign, and expenditures upon each individual campaign" (EARC 1993, para.7.180).*

8.1.4 More specific proposals for changes to the *Public Finance Standards* were made later in EARC's Report where it was recommended that departments' and agencies' Annual Reports should itemise expenditure on:

- (a) advertising agencies;
- (b) market research organisations;

- (c) polling organisations;
- (d) public relations firms;
- (e) media advertising placement organisations;
- (f) direct mail communications;
- (g) printing and reprographic services; and
- (h) any other consultants and services (EARC 1993, para.8.274).

8.1.5 The Committee's Report on Review of Public Registration of Political Donations, Public Funding of Election Campaigns and Related Issues has previously recommended the disclosure of expenditure on 'advertising' initiated by Government instrumentalities (PCEAR 1993, para.8.2.5). The categories of expenditure recommended by EARC to be disclosed are similar, except that EARC has included expenditure on printing and reprographic services. Whilst the Committee supports EARC's suggested changes to the Public Finance Standards it considers the value of this reporting requirement should be assessed in light of the Auditor-General's reservations as expressed to the Committee:

"While I recognise the need for expanded disclosure in respect of Media and Information activities, it has to be appreciated that all forms of accountability attract a price. The real issues, in my view, for determination is the one confronted regularly by standard setters in reaching agreement on user needs versus cost of compilation. It would seem to me that an element of this is to be found in EARC's proposals. Over the years I have witnessed departments diligently maintaining information following a one-off request to find that interest later wanes in relation to that information. My point is that it would be necessary to ensure that the information called for had an ongoing purpose."

8.1.6 The EARC Report noted that details of the staffing levels of Ministerial Offices are not generally made available to the public and recommended that the Premier's Department publish this information in its Annual Report (EARC 1993, para.5.45(a)). The Committee agrees.

8.1.7 THE COMMITTEE ENDORSES EARC's proposed amendments to the Public Finance Standards but recommends that they be subject to review by a parliamentary committee at an appropriate time.

Ministerial Staffing

8.1.8 The EARC Report reiterated a recommendation from an earlier report that the staff establishment of the Opposition parties should be maintained at 20 per cent of that of ministerial offices and reflect parity with the salary profile of ministerial staff (EARC 1991, para.6.67(a) and 1993, para.5.99(a)). In its review of that earlier recommendation, this Committee noted that one of the statutory functions of the all-party Parliamentary Service Commission was to determine the services to be provided by the Parliamentary Service (s.7 Parliamentary Service Act 1988). The Committee therefore believed that it was more appropriate for the Commission to assess this EARC recommendation:

"In order to avoid unnecessary duplication of the review process, the Committee refers EARC's recommendations ... [at para.6.67(a)] to the all-party committee which administers the Parliamentary Service Commission and further recommends

that the Parliamentary Service Commission considers these matters expeditiously" (PCEAR 1992, para.4.50).

8.1.9 The Committee confirms its earlier recommendation that the level of staff resources provided for the Opposition parties is a matter for review by the Parliamentary Service Commission.

8.2 Evaluation of Publications and Information Campaigns

8.2.1 Whilst departmental officers should be accountable for expenditure on publications and information campaigns EARC recognised that they should also be accountable for the effectiveness of their information activities.

8.2.2 EARC recommended that formal guidelines be developed and published by the Information Policy Board for the evaluation of the effectiveness of departmental and agency publications. EARC suggested that, as a minimum, these should include:

- (a) criteria as to the specific categories of publications for which evaluation will be required;
- (b) a range of detailed methodologies to suit the particular circumstances of publications the subject of evaluation (EARC 1993, para.6.102).

8.2.3 The submission from the Administration Services Department commented that this recommendation implied a need for high level, strategic planning of marketing and communications activities within all public programs. That submission noted that whilst evaluation of some program may be difficult many agencies would benefit from such formal guidelines:

"Program managers within agencies generally lack strategic marketing and communications skills and experience, particularly in high profile areas such as advertising and public relations. Some principles and guidelines should be established to assist agencies in their planning, conduct and evaluation of communications/information activity within their programs ..."

... the communications industries have both qualitative and quantitative measures ranging across efficiency (eg. reach within target groups, distribution, circulation) and effectiveness (eg. recall, action) for evaluating information activities."

8.2.4 The submission from the IPB noted that guidelines could be developed from which any person planning to develop a publication could obtain guidance as to how to undertake that task and the standards and evaluation that would be required. That submission went on:

"How easy that would be needs to be established. Clearly there would need to be a cost/benefit threshold for which such an assessment process would apply, which seems to be what [recommendation 6.102(a)] ... is suggesting."

Insofar as [recommendation 6.102(b)] ... goes, some research into journalistic practice or theory could identify the above mentioned criteria to be applied. Advice would have to be sought on what that should be. It is assumed that

different types of publications need different structures and styles of presentation depending upon the audience and the message."

8.2.5 The submission from the Department of Environment and Heritage commented that departments should be consulted regarding publication strategies currently in use but in any case departments should be free to decide what publications will be produced. The Department also noted that the evaluation of the effectiveness of publications should not be on narrow or selective lines such as cost-effectiveness or the number of copies circulated. While the Committee supports the need for such guidelines it may be that the Premier's Department, and not the Information Policy Board, is the more appropriate agency to develop these guidelines.

8.2.6 A related issue is the need for evaluation of paid government information campaigns and who should develop and oversee such evaluation. EARC recognised the need to build evaluation processes into any proposal for an information campaign (EARC 1993, para. 7.179). EARC has suggested that Treasury could develop special particularised evaluation methodologies for information campaigns (EARC 1993, para. 7.178). Individual agencies would still have to be accountable but the Auditor-General would be able to assess the integrity of such evaluations by virtue of s.80 of the *Financial Administration and Audit Act 1977*. The PSMC report identified departmental information communications activity was an area where rationalisation of activities could produce savings and recommended that the Government Services Group (GSG) identify areas where savings can most effectively be made. Evaluation of the effectiveness of departments' information campaigns and publications would be a valuable contribution to any attempt to rationalise departmental communication activities.

8.2.7 THE COMMITTEE ENDORSES EARC's recommendation that guidelines should be developed for the evaluation of the effectiveness of government publications. These guidelines should include:

- (a) criteria as to the specific categories of publications for which evaluation will be required; and
- (b) a range of detailed methodologies to suit the particular circumstances of publications subject to evaluation.

8.3 Parliamentary Scrutiny

8.3.1 The Fitzgerald Report noted that there was a legitimate need for Government Ministers, departments and instrumentalities to employ staff to help ensure the public was kept informed. But there was no legitimate justification for taxpayers' money to be spent on politically motivated propaganda. If government information and media units failed to properly inform the public then their existence was a misuse of public funds (Fitzgerald Report 1989, p.142).

8.3.2 The Fitzgerald Report recommended that EARC should supervise the:

"Formulation of guidelines for monitoring the costs and activities of ministerial and departmental media units and press secretaries by an all-party Parliamentary Committee" (Fitzgerald Report 1989, Recommendation 10(h) p.371).

8.3.3 In the event, the EARC Report did not contain guidelines for a parliamentary committee to monitor government media units, focusing its recommendations instead on guidelines for the officials responsible for media units. However EARC did address the issue of parliamentary scrutiny. EARC reported that the majority of submissions to it favoured a role for a parliamentary committee in the supervision of the activities of Ministerial Media Advisers. Professor Flint of the Australian Press Council also told EARC at its public hearing that parliament must have a role in this area (see EARC Transcript p.945). However, opinions were divided on the role that parliament should play and there was some concern that ministerial staff ought not be caught in the political cross fire. The Director of the Premier's media unit expressed similar concerns at EARC's Public Seminar:

"... I do not think that we need another committee to oversee the operations of government media activities.

The combination of Freedom of Information and other checks and balances and reforms that have been and are being introduced in Queensland I think make the need for such a committee superfluous. I think there would be a very great danger of it being used as just another political football ground to have press secretaries' heads kicked around in. It is not something I actually would welcome" (Atkins 1992, p.20).

8.3.4 In response to EARC's question of whether there was a need for a Parliamentary Committee to monitor the expenditure by Departments on information activities the Co-ordinated Government Departments' Response stated:

"Most Departments saw no need for such a Committee. They felt that there is already enough detail in Annual Reports and Estimates debates. It was suggested that if a review by a Committee is necessary, then the Public Accounts Committee should handle it" (EARC file 009S/30).

8.3.5 In the final analysis, EARC did recommend a greater role for the Parliament in two areas. First, EARC recommended that the Legislative Assembly's scrutiny committees be given a specific responsibility for monitoring the costs and activities of ministerial and departmental media and information units (see EARC 1993, paras.5.65(a), 8.291 and 8.292). Second, EARC recommended a role for parliamentary committees in ensuring that departments comply with the existing requirements for annual reports (EARC 1993, para.6.30). EARC recommended that Parliament be assisted in its scrutiny role by the development of performance indicators specific to the operations of information units and reported to Parliament (para.8.273).

8.3.6 EARC considered that the development of performance indicators for media units would lead to greater accountability (EARC 1993, p.230-236). Program management already requires that all departments develop performance indicators so as to evaluate their programs. All submissions to EARC on the issue maintained that departmental media units should be subjected to the same accountability and reporting requirement as that of other units of public administration. The Committee agrees and considers that evaluation guidelines for publications and information campaigns as described in Chapter 6 be incorporated into program management procedures.

8.3.7 The Committee's recent *Report on Review of Parliamentary Committees* recommended that the Legislative Assembly enhance the roles of the existing Public

Works and Public Accounts Committees and establish a new committee, the Public Sector Review Committee, so that the Parliament could better perform its constitutional duties. That Report also recommended the establishment of a system of six estimates committees to review the Government's budget proposals (PCLEAR 1993). If these recommendations are accepted these committees will have the responsibility to scrutinise the information contained in departments' annual reports and the costs and activities of ministerial and departmental media and information units.

8.3.8 THE COMMITTEE recommends that responsibility for monitoring the costs and activities of ministerial and departmental media and information units and ensuring compliance with requirements for annual reports be given to the Legislative Assembly's Standing Committees as proposed by this Committee.

Misleading Information to Parliament

8.3.9 EARC noted an anomaly in the reporting of certain Government media expenditure ordered by the Parliament to be made public. It was the practice since they have been changed for the Parliament to order the Government to table details of all payments made by the Crown to public relations agencies or consultants and advertising agencies or consultants. The last tabling of this information (the *Return to Order*) was on 13 March 1991, when the data for the 1988-89 financial year was tabled. EARC was advised that although the *Return to Order* was supposed to cover all payments made by the government to public relations agencies or consultants and advertising agencies or consultants, the information previously tabled in Parliament was incomplete:

... payments on behalf of only a handful of government agencies and instrumentalities were included. Further it appears that in some instances advertising placement costs only were nominated by departments and agencies while associated advertising production and public relations costs were not. The first detailed figures were presented to Parliament by the present government last year and covered the 1988-89 year. It must be emphasised that the incomplete nature of the information presented to Parliament in previous years means there is no proper basis for comparison between those years and 1988-89" (Barbagello quoted in EARC 1993, p.116).

8.3.10 EARC was concerned that the Parliament was not told of this development even though and there was no evidence that the Parliament or any of its Committees had actually used the information in these returns. In the event, EARC recommended that the Privileges Committee investigate compliance with the Order (EARC 1993, para.5.65(b)).

8.3.11 Providing the Legislative Assembly with misleading or incomplete information is a serious offence and constitutes a contempt of Parliament (Boulton 1989, p.118). Notwithstanding this, these returns are now over five years old and the Committee is of the opinion that nothing would be achieved by such an investigation. However, in the future, public officials should be made aware of their with responsibility to provide accurate information to the Parliament when requested to do so.

9 A WIDER INQUIRY?

9.1 The Issues

9.1.1 The possibility of conducting a wider review of the Queensland media to increase its accountability was considered by EARC to be outside its statutory functions, and this view has been accepted by this Committee (see para.1.3.8). As has already been noted however, the Committee considers that this decision meant that EARC was only able to consider one side of the government media relationship. Mechanisms for ensuring fairness and accountability in government's dealings with the media have already been recommended.

9.1.2 This Committee is not constrained by the legislation which led EARC to conclude that a general review of the state's media was beyond its jurisdiction. In response to the suggestion in various submissions to EARC that there should be a wider inquiry into the State's media, this Committee reviewed media practices of direct relevance to the government media relationship. This was done within the context of current debates, and other inquiries centring on media accountability, self-regulation and professionalism, and by drawing on submissions to EARC and this Committee as well as the broader literature.

9.1.3 The Committee considered that there was no need for a wider public inquiry into the state's media, but that media practices need to be held under constant review by the industry to ensure that the problems identified by Fitzgerald do not recur. Just as there has been fundamental reform of the mechanisms of accountability and ethical practice in the public sector there is a need for similar vigilance within the media industry.

9.1.4 It is not the role of a Committee of the Parliament to direct the media in appropriate methods of management or accountability. The unique role of the media as the Fourth Estate however imposes additional responsibilities. As the comprehensive review of the Fourth Estate functions of the media in the EARC report showed, and the reporting which triggered the Fitzgerald inquiry demonstrated, a vigilant, accountable and reliable media is an essential element of any democratic society, 'the feedback mechanism of democratic system management' (Kunczik 1989).

9.1.5 The genesis of the Fitzgerald Inquiry made it likely that the report would draw some conclusions about media practice, and although it did not recommend a formal inquiry into the media Fitzgerald observed:

"The media is one of the most important and effective mechanisms for the control of powerful institutions and individuals by reason of its ability to sway public opinion. Those who wish to mould public opinion must do so largely through the media. The media played a part in exposing corruption and two media organisations contributed to the setting up of this Inquiry. Unfortunately it's also true that parts of the media in this state have over the years contributed to a climate in which misconduct has flourished. Fitting in with the system and associating with and developing a mutual interdependence with those in power have had obvious benefits" (1989, p.141).

9.1.6 Speaking at the Commission's public seminar in June 1992, Deputy Editor of *The Canberra Times*, Jack Waterford, suggested that the Queensland media itself needed reform:

"... of the institutions involved in the old days and the old ways, the media is the one least affected, least reformed, and least changed as a result of what came out of the Fitzgerald process.

There are, on the whole, the same old players, and if they are now singing slightly different songs it is on much the same old instruments. It is as complacent as ever, and in some respects has its own institutional reasons for being very conservative about too profound change, which might, heaven forbid, actually deprive it of an excuse for not working harder ..." (Waterford 1992, p.10).

9.1.7 The submission from John Orr suggested that the EARC report failed to come to grips with the essential issues Fitzgerald wanted canvassed. Orr stated that although a 'docile media' may serve the purposes of the government and the industry, it was not in the public interest. Orr developed his argument in a subsequent publication:

"Since (Fitzgerald reported) the state is now a fairer, more democratic, more tolerant place. It is led by the first Labor government in thirty-two years and reform of all state institutions has taken place - except the media.

For the Queensland media, it has been largely business as usual, despite raging professional controversy, allegations that some journalists are too close to the government of the day, and a twelve month landmark inquiry into government media and information services. Since Fitzgerald reported, the media in Queensland have become more concentrated in ownership and less subject to competition than ever.

The way the media stood above the sea change... demonstrates the nature of news organisations, their political power, and the symbiosis between government and media, particularly in a monopoly. The reluctance of journalists to confront the hard ethical issues that this situation provoked means that, despite widespread recognition that change was due, the system remains unaltered" (Orr 1994, p.96).

9.1.8 Lawe Davies agrees that apart from the efforts of some individual journalists, the Queensland media culture is unchanged. He observed that when criticised industry leaders defend media practices in terms of Queensland's uniqueness (1993, p.84). The submission to EARC by Phil Dickie expressed similar sentiments:

"It is my view that Queensland is poorly served by its media organisations and its journalists ... Reform has occurred to a greater or lesser degree, in most public institutions in Queensland. My view is that reform has not occurred in the media, indeed it has become more derelict in the performance of its public information function and less accountable. This, in my view, is rendering the media to one of the major obstacles to continued reform" (EARC file 009S/41).

9.1.9 Considering the widespread and persistent criticism of the Queensland media (Coaldrake 1989; Whitton 1989; Grundy 1990; Orr 1990, 1994; Dickie 1989, 1990) it is worth noting that of the major media organisations only Australian Associated Press prepared a formal submission to the EARC inquiry. A number of specific responses from

media organisations were made to EARC following the allegations raised by Arthur Gorrie. Queensland Newspapers, Gold Coast Publications and the Editor of the Sunday Mail also made submissions to this Committee's review of the EARC report.

9.1.10 Issues affecting media reform were addressed in several submissions to the Committee. The Media, Entertainment and Arts Alliance argued that media standards would improve with more commercial competition between news outlets and legal protection for journalists:

"Journalists and their practices are currently subject to considerable scrutiny. We welcome it and believe that any fair and diligent inquiry will find that our members act with great rigour and high standards in difficult circumstances. The greatest contribution to higher media standards will come from two factors:

1) More competition:

This can only be addressed commercially now that a series of federal government actions have effectively put control of media into fewer hands and lowered the number of competing news outlets.

2) Better legal protection for journalists:

This would require changes to the defamation laws including a uniform defamation code, and shield laws to provide some professional privilege for journalists including the protection of confidentiality. We look forward to parliamentary reviews of these issues".

9.1.11 The Committee agrees that the issues of media competition and legal protection for journalists are important elements of media reform and notes that these issues have also been canvassed by other Commonwealth and Victorian inquiries. These issues will be discussed in greater detail in the following sections of this chapter. The other inquiries alluded to in the MEAA submission are:

- (a) the Victorian Norris Royal Commission in 1981;
- (b) the Working Party into Print Media Ownership which reported to the Victorian Attorney-General in December 1990;
- (c) the House of Representatives Select Committee on the Print Media in 1992;
- (d) the current Senate Select Committee on Foreign Ownership Decisions in Relation to the Print Media, expected to report on 4 May 1994; and
- (e) the current Senate Legal and Constitutional Committee inquiry into certain aspects of media accountability, expected to report on 9 June 1994.

9.1.12 As the number and increasing frequency of these inquiries suggest, questions of media ownership, regulation and ethical practice are currently matters of considerable public and political interest. Public opinion polls suggest that public confidence in the media is not high, and journalists are not held in high regard by the community generally (Saulwick 1991, Morgan 1992, Schultz 1994). The reasons for this low esteem are complex and cannot be attributed to any one situation or behaviour, although two major

issues emerge: concentration of media ownership and the limited effectiveness of media self-regulation and accountability. In the current review of journalists ethics being conducted by an independent committee chaired by Father Frank Brennan for the Media, Entertainment and Arts Alliance, the discussion paper linked these two central issues:

"Reform of self-regulation must be a corollary of such efforts to reform laws affecting speech. If legal limits on speech shrink, media power grows. It is imperative that media accountability be, and be seen to be, effective and fair. Without that, otherwise sound arguments for law reform, from which many would benefit may be resisted merely because of concern that the main beneficiaries of such reforms would be media people who are perceived already to have too much power and too little responsibility. The trend generally is towards self-regulation for professional or quasi professional groups ... In recent years increased concentration of media ownership and control has led to calls for guarantees from owners that journalists will have editorial independence. If given and used, such guarantees shift power from owners to journalists. But what is the independence for? If the answer be that journalists can then act in accordance with the code of ethics, then that code and its enforcement become the focal point for extracting accountability from media" (MEAA 1993, p.3).

9.1.13 Media companies throughout the world have historically been opposed to attempts by parliament or governments of the day to regulate, licence or control their output. It is widely accepted that freedom of the media and the effectiveness of a democratic political system are inextricably linked (Triffen 1994). The nineteenth century assertions of political independence for the press still resonate today. As James Delane editor of the *Times* of London wrote in 1852:

"We cannot admit that a newspaper's purpose is to share the labours of statesmanship or that it is bound by the same limitations, the same duties and the same liabilities as the ministers of the Crown. The purpose and duties of the two powers are constantly separate, generally independent and sometimes diametrically opposite. The freedom and dignity of the press are trammelled from the moment that it accepts an ancillary position. To perform its duties with entire independence, and consequently to the utmost public advantage the press can enter into no binding alliances with the statesmen of the day."

9.1.14 There is much more media today than there was when Delane outlined his interpretation of how the principle of the Fourth Estate should influence the role and conduct of the press. As David Solomon has written, *"Somewhere along the line the fourth estate became just 'the media'" (The Courier-Mail 5 February 1994, p.31)*. As the impact and economic significance of the media has increased so too has its relationship with governments changed. Not only has a symbiotic relationship developed for the purposes of news management, but governments and media owners, managers and editors constantly negotiate a complex relationship. Furthermore as a technologically changing and economically significant industry, decisions by governments have a direct bearing on the commercial success of the media.

9.1.15 As has already been noted it is in the best interests of the electorate, parliament and of good government to have accurate, reliable and accountable media. However the mechanisms needed to achieve this are substantially beyond the reach of any State government. In a media industry which is definitively national and increasing global in its ownership and reach, the opportunities for a State government to regulate the ownership

or influence the behaviour of the media are limited. Ownership issues, where they involve a reduction of competition, are now most likely to come before the Trade Practices Commission; licensing and standards issues affecting the electronic media are within the purview of the Australian Broadcasting Authority; responsibility for the oversight of the newspaper industry rests with the Australian Press Council; and the Media Entertainment and Arts Alliance assumes ethical supervision of its journalist members.

9.1.16 The effectiveness of this regulatory model is of direct interest to all Queenslanders, in view of the recent history of this state it is important that the media recognise and acknowledge their historic responsibility as the Fourth Estate and strive for the highest standards of accuracy, ethics, accountability and practice.

9.2 Ownership of Media in Queensland

9.2.1 In 1991 the issue of concentration of media ownership became a national political issue of considerable significance. As a result of this widespread concern a Select Committee was appointed by the House of Representatives to inquire into print media ownership, barriers to entry and editorial practice. The Committee chaired by Michael Lee MHR found that 'formidable barriers' to entry made it unlikely that major new newspapers would emerge in Australia (1992, p.xix). The recent experience in Brisbane with the collapse of the *Brisbane Independent* after only several months reinforces this assessment.

9.2.2 In reaching this conclusion the Lee Committee reviewed the historical development of the media and the relative decline of the press, with newspaper circulation for each thousand Australians falling from 700 in 1950 to 300 in 1990 (MEAA EARC file 009/5 p.108). In 1930 there were 20 daily newspapers produced in Australian capital cities by twelve companies. In 1986 there were 15 capital city dailies owned by three companies. Since then 13 daily and Sunday newspapers have ceased publication in Australian capital cities, and the industry has come to be dominated by one company with one other significant organisation. In Brisbane there is now one daily and one Sunday newspaper, both owned by the same company. Six years ago there were three dailies and two Sundays owned by two companies.

9.2.3 Just as newspapers have declined in number and circulation per capita, there has been a proliferation of other media. The electronic media has become increasingly important in the dissemination of news, information and entertainment. Changes to federal communications policies have led to the development of formal commercial television networks and limits on cross media and foreign media ownership. There are now three major commercial television networks, and six smaller networks, two public television networks, four national commercial radio networks and 164 commercial radio stations (*Communications Update* February 1994, pp.8-13). One result of this for television viewers in Queensland has been the reduction of locally produced news and current affairs programs, which have been replaced by nationally networked programs predominantly produced in Sydney.

9.2.4 With the decision by the Commonwealth to permit the introduction of cable and pay television in Australia we are now poised on the edge of a new proliferation of media services. Already cable television licenses have been allocated for services to be provided

in a number of Queensland regional centres and south east Queensland represents an important target audience for many of the proposed cable and pay television operators. These operators are most likely to provide a mixture of movie, sports, news and niche channels. If the licensee provides a drama service, ten per cent of program expenditure must be on new Australian drama. Although the *Broadcasting Services Act 1992*, does not require the provision of explicitly Australian, local or regional content, commercial success may be influenced by the local relevance of the programs transmitted.

9.2.5 In addition to the new media outlets which will become available as a result of the introduction of pay and cable television, the Commonwealth Government is also considering the development of an 'information super highway' and the possible introduction of a large range of interactive media services. The Broadband Expert Group is due to present its report to the Minister for Communications by December 1994. The possibility of the 'information super highway' providing a wide range of media services in future was considered by the Lee Committee to be one way of obviating the possible negative consequences of increasing concentration of media ownership in the existing media, and the formidable barriers to entry for new print outlets:

"For the community, the technological changes will result in an array of new services as well as a significant expansion of traditional services. The barriers to entry in the provision of value-added communication services are likely to be lowered. The future market is likely to be characterised by a stronger competition for audiences and by a greater diversity of services. As services expand, the more diverse needs of consumers are likely to be satisfied and greater emphasis is likely to be placed on niche markets. Small specialist information providers are likely to emerge and play a greater role in the market. The creation of smaller markets could mean that the power of major media groups to influence public opinion may be diminished" (News and Fair Facts, para.9.112, pp.342-343).

9.2.6 At this stage it is likely that many of these new services will be provided by existing media companies, the ability of the new media organisations to make a significant impact in the marketplace will be an important test of the Lee Committee's optimism. Certainly the national and international media ownership pattern suggests that the largest companies are likely to continue to grow and may even dominate these new and emerging markets.

9.2.7 The current state of media ownership in Australia is that News Ltd owns 65.9 per cent of daily newspaper circulation, John Fairfax Ltd owns 22.1 per cent, West Australian Newspaper owns 10.1 per cent and Kerry Stokes owns 1.7 per cent. Of the Sunday newspaper market, 74.8 per cent is owned by News Ltd, 24.1 per cent by Fairfax and just over one per cent by Kerry Stokes. Australian Provincial Newspaper Group owns 31.2 per cent of regional daily circulation, News Ltd owns 21.6 per cent, John Fairfax Ltd owns 14.8 per cent and Rural Press owns 12.5 per cent, with the remainder held by smaller companies. The largest share of suburban newspapers are owned by News Ltd with 49 per cent of the national circulation, Fairfax owns 14.8 per cent, and United Media, a joint venture with West Australian Newspapers has 8.3 per cent of the national market and publishes most of Perth's suburban papers. Smaller companies publish the other quarter of Australia's suburban newspapers. Although the market for magazines and the number of new titles has grown considerably, the magazine market is dominated by Kerry Packer's company Australian Consolidated Press with 46 per cent of the total national circulation of magazines. News Ltd has 25.97 per cent of the magazine market, of which *TV Week* which is jointly produced with Consolidated Press accounts for seven

per cent. Television networks may now reach 75 per cent of the population (BSA s.53(1)). The Nine Network with three metropolitan stations and one regional reaches 51 per cent of the population, Seven Network with five metropolitan stations reaches 64.5 per cent of the national population, the Ten group with three metropolitan stations reaches over 50 per cent of the population, Prime with three regionals reaches 21.74 per cent and Capital Television reaches 20.39 per cent (*Communications Update* February 1994).

9.2.8 The EARC report included extensive data on media ownership in Queensland. It found that the Murdoch owned News Corporation Ltd publications dominated Brisbane, South East Queensland and North Queensland (EARC Appendix E.1). News Ltd produces the State's principal daily and Sunday papers and dominates the Brisbane suburban weekly newspaper market. News Ltd also held approximately 38 per cent of the Queensland regional daily newspaper market. The Irish national Tony O'Reilly, through Australian Provincial Newspaper Group, had approximately 59 per cent of the Queensland regional daily newspaper market.

9.2.9 Concentrated media ownership need not of itself be a problem. This was recognised by MEAA in its submission to the Committee:

"... the issue is not concentration of ownership of itself but the threat to editorial independence that is said to accompany it."

9.2.10 This possible loss of independence and a reduction of diversity of news and information as a result of concentration is a matter of concern. Access to a wide range of information is an essential element of a well informed democracy. The possibility of anti-competitive practices emerging in a monopoly or oligopoly are also of concern (Chanticleer, AFR 13/4/94). The possibility of the abuse of power and influence if too much of the media is owned by one group have been recurring issues in public discussion of media policy, and remain so. The possibility of this abuse was canvassed by the House of Representatives Select Committee on the Print Media. That report noted:

"A well informed democracy should have access to a wide range of opinions and information. An excessive level of print media ownership concentration can be a potential threat to maintaining the diversity of sources of information" (News and Fair Facts 1992, para.7.81).

9.2.11 The capacity of the media to influence politics and the agenda of public debate has been well documented (Parker 1990, Horne 1994). Although editors assert that proprietors are less likely to interfere with the content of the newspapers than they once did (Kelly 1994, p.83), Mr Kerry Stokes proprietor of *The Canberra Times* was reported in his paper as saying:

"Media organisations, due to the nature of their business, wield more corporate might than their turnover might justify. That this is so is neither right nor wrong. It is merely so. In conducting a business, a media organisation cannot but play a major role in the shaping of government policy. This influence cannot be abdicated. Media control is therefore a privilege bestowed on very few people. It is not too much to ask that those people be Australian, be subject to the influence of Australia and be answerable to Australians in Australia" (*The Canberra Times* 27 November 1993).

9.2.12 The submission by MEAA also raised concerns about the concentration of media ownership leading to uncompetitive journalism and cosy relations with government:

... concentration of media ownership in Queensland presents a real and worsening threat to ideals of open, democratic and accountable government. If democracy is defined as the right of the minority to express its view rather than the simplistic definition of the 'rule of the majority' then Queenslanders are hard pressed to find a democratic forum to express alternative views

... limited media scrutiny of Government activities creates the perfect breeding ground for less healthy practices of media manipulation transgressing the ethical border line and bordering on the corrupt" (MEAA, EARC file 009/5, pp.14-15).

9.2.13 The Lee Committee recommended that competition and diversity in the print media be improved. One method was to amend the *Trade Practices Act 1974* (Cwth) to require mandatory authorisation for all print media takeovers and mergers and set requirements which must be met for authorisation to be granted. That Committee also recommended:

"That cross-media ownership limits for radio be retained. That the amendments to the Broadcasting Services Bill 1992 (Cwth) which limits cross-media ownership and presumes that a holding of 15% or more gives a person control, in the absence of proof to the contrary, be implemented. ...

That the Foreign Investment Review Board continue to examine all foreign proposals in the print media. That Government guidelines for foreign investment in the print media be amended to approve foreign control of 20% subject to the normal national interest requirements. That all proposals above 20% must prove that the proposal is in the national interest, or that special arguments apply; and that the Treasurer publish reasons for accepting or rejecting foreign investment proposals in the print media" (News and Fair Facts 1992, pp. xxxi - xxxv).

9.2.14 The Federal Government supported an amendment to the *Broadcasting Services Act 1992* as suggested by that Committee. However, while the Government agreed that the Foreign Investment Review Board should continue to examine all foreign investment proposals in the print media it did not accept the introduction of two levels of assessment on foreign investment proposals. The Government stated that its foreign investment policy for the print media was sufficiently flexible to take all of the suggested factors into account. In respect to the *Trade Practices Act 1974* (Cwth), the Government responded that amendments were unnecessary as the existing provisions permit mergers which substantially lessen competition to be authorised by the Trade Practices Commission where the merger is "likely to result in such benefit to the public that it should be allowed to take place" (Government Response tabled 15 December 1993).

9.2.15 The *Broadcasting Services Act* imposes limits on foreign media ownership and cross media ownership. This legislation restricts an individual foreigner's company interests in commercial television to 15 per cent, while a group of foreign individuals may not have a company interest exceeding 20 per cent (s.57). Restrictions on an individual owning a newspaper and television or radio licence within the same area are also imposed (s.60) as limits on cross media ownership are the key to the Federal Government's media ownership policy. This is monitored by an associated newspaper register (s.59), which

notes the cross media holdings of media companies. Sixteen newspapers in Queensland are included on the associated newspaper register — Brisbane, Cairns, Maryborough, Toowoomba, Mackay, Warwick, Gladstone, Gold Coast, Gympie, Rockhampton, Bundaberg, Mt Isa, Maroochydore, Ipswich Townsville — as a result of cross media ownership within each region. The Australian Broadcasting Authority also maintains a register of newspapers with a circulation in excess of 100,000 (s.105), at this stage *The Courier Mail* is the only registered newspaper in Queensland. The current Select Committee on Foreign Ownership Decisions in Relation to the Print Media is currently considering issues of foreign media ownership.

9.2.16 As has already been noted regulation of the media is primarily a matter of Commonwealth responsibility. There have however been two Victorian inquiries into media ownership established following significant changes to newspaper ownership in that State: the Norris Royal Commission in 1981 and the Working Party into Print Media Ownership which reported to the Victorian Attorney-General in December 1990.

9.2.17 The Norris inquiry concluded that an increase in concentration of ownership and control could result in a loss of diversity in the expression of opinion, and the power of a few to influence many (Norris 1981, p.217). Norris stated:

"It is important to distinguish between two aspects of the power which arises from the concentration of ownership and control. The first is the aspect which is common to all or most commercial enterprises - the power of achieving a high degree of control in the market with the consequence of increased profit to the newspaper proprietor. The second is the power to influence the very functioning of our whole society by control over the nature and extent of the information presented to it and by the analysis and interpretation of that information. It is this latter aspect of power, affecting social and political affairs, that distinguishes the media industry from other industries" (1981, pp.85-86).

9.2.18 The Norris inquiry further concluded that future harm from further concentration of media ownership could not be prevented by the Australian Press Council or market forces. Hence, the report recommended the statutory establishment of a Press Amalgamations Authority to scrutinise acquisitions by newspaper publishers already owning more than 10 per cent of share holdings in other newspapers in Victoria. Consent depended on the acquirer proving that the acquisition was not contrary to public interest (Norris 1981, pp.193 and 219). After a change of government, Norris's recommendations were not acted upon.

9.2.19 In December 1990 following the acquisition of the Melbourne-based Herald and Weekly Times group by News Corporation Ltd, the Working Party into Print Media Ownership (Chaired by the Hon Race Mathews MLA) found that the concentration of media ownership was greater than it had been in 1981, when Norris reported. Mathews concluded that it would be in the public interest to dilute the existing concentration of ownership and to prevent further concentration of print media ownership (1990, pp.3 and 4). The Report stated that:

"We underpin our recommendation with the principles Sir John Norris urged:

(a) the means to be employed to allow the press to function as it should must not themselves threaten its freedom.

(b) any legislation to regulate ownership and control must be so drawn as not to interfere with the content of the press, or with the liberty of persons to publish. Any concept of licensing the press or regulating its content must be eschewed.

(c) if the relevant legislation is to satisfy (such conditions) ... it must not constitute the executive government the repository of the authority to grant or withhold favours" (1990, p.3).

9.2.20 The most significant recommendation of the Mathews Committee was the implementation of legislation to prevent further concentration of print media ownership. A draft Bill to limit concentration of ownership, modelled on the recommendations of the Norris inquiry, was prepared. The Hon. Race Mathews MLA sought leave to introduce this Bill into the Victorian Parliament in November 1991. The Bill however, was not introduced primarily because of caution about the likely political ramifications of establishing a tribunal which would challenge the power of the newspaper companies in the State. Mathews observed:

"I regard the draft legislation as having been entirely practical and constitutionally sound, and the failure to proceed as having stemmed purely from political considerations" (Mathews 1994).

9.2.21 These Commonwealth and Victorian inquiries found high and increasing concentration of media ownership of newspapers and formidable barriers for new entrants. These reports have warned of the possible dangers of a loss of diversity of information as a result and the dangers to society as a whole of a few proprietors exercising undue influence over the information and opinions available. Increased concentration also increases the potential political power and influence of the media companies, making politicians cautious in their dealings with the media.

9.2.22 This Committee acknowledges the concentration of print media ownership in Queensland and recognises that this has the potential to reduce the diversity of news and information available to Queenslanders and lead to possible abuses of influence. Although a Queensland inquiry may provide further anecdotal evidence about the alleged shortcomings of the Queensland media, it is unlikely that such an inquiry would expose any problems or solutions not previously uncovered. The outcomes of previous inquiries provides sufficient ground for the Queensland Government to take any necessary action to limit any attempts to further concentrate media ownership in Queensland.

9.2.23 The Committee is of the opinion that holders of cable and pay television licences should carefully examine the commercial advantages and strategic significance of producing locally relevant program content. As well, the Committee considers that the Trade Practices Commission should exercise caution in assessing the public benefit where print media mergers lessen competition in this State.

9.3 Self-Regulation of the Media

9.3.1 Traditionally in democratic countries, governments have not exercised statutory oversight of the media. Although television and radio licences have been allocated by government agencies which have had the authority to set and evaluate standards, these

agencies have been independent of executive government. The print media has not been subject to this oversight.

The Broadcast Media

9.3.2 Throughout the economy self-regulation is increasingly the preferred mode, and this has been embodied in the *Broadcasting Services Act 1992*, which establishes a self-regulatory regime for the electronic media. Under this Act broadcasters are encouraged to be responsive to community standards and the need for fair and accurate coverage of matters of public interest and matters of local significance. This regime requires the registration of codes of practice by industry groups, and the establishment of appropriate mechanisms for dealing with complaints. Codes for television and radio have now been registered by the Australian Broadcasting Authority.

9.3.3 Those who wish to complain about radio and television broadcasts are now required to make complaints directly to the broadcaster. If the complaint cannot be satisfactorily resolved it is referred to the Australian Broadcasting Authority (the ABA), which will then investigate the matter. The ABA no longer monitors all complaints, records of complaints received are now kept by the broadcaster.

9.3.4 The ABA does not have any particular responsibility for oversight of journalistic practices in the electronic media except insofar as they are matters which breach the registered code, and have not been able to be resolved by negotiation. The *Broadcasting Services Act* places obligations on broadcasters to produce news and current affairs programs which are 'fair and accurate'. The lack of any agency with particular oversight of journalistic practice in the electronic media is regarded by many as a weakness in the mechanisms of self-regulation in the industry (Chadwick 1994; Senator Cooney interview *The Courier Mail* 5 February 1994, p.31).

The Print Media

9.3.5 The primary agency of self-regulation of the print media is the Australian Press Council, an independent organisation funded by the publishers. Ten of its 21 members are employees of the major publishers, others are appointed by the Council as community and journalist representatives. The Council has an independent chairperson. Since the Australian Journalists' Association left the Press Council in 1986, following a dispute over the Council's unwillingness to protest against the News Ltd acquisition of the Herald and Weekly Times, journalists have not been officially represented on the Council.

9.3.6 The Press Council has two primary functions, to act as an advocate for freedom of the press and to adjudicate complaints made by members of the public against newspapers and magazines. The Press Council has established a Statement of Principles which it uses to evaluate and review complaints. Most complaints are dismissed or settled by conciliation, and a smaller percentage are investigated and examined in greater detail by the Council (Schultz 1990, p.9). The Council issues judgements which it expects to be published in the newspaper or magazine in which the original article appeared. Editors are not obliged to publish these judgements, but they are increasingly likely to do so (Australian Press Council 1994). Critics of the Council note that these

judgements are rarely given the same prominence as the original, offending, article (Chadwick 1994, Bowman 1988 p.23).

9.3.7 The Lee Committee recommended (p. xxxii) that the Australian Press Council be restructured, its funding increased and its powers enhanced but its recommendations were rejected by the Council. Lee also recommended that the Minister for Transport and Communications convene a meeting of representatives of the publishers and the AJA to discuss implementation of this restructuring. This meeting has not yet been convened, although as Hon Michael Lee MHR is now the Minister for Communications the possibility of holding such a meeting may be reconsidered.

9.3.8 The Australian Press Council is not regarded as an especially powerful self-regulatory agency (Chadwick 1994), and its dual functions as an advocate of press freedom and a complaints agency may lead to a confusion of purpose. Sir David Calcutt QC who recommended the establishment of a statutory press complaints tribunal in Britain found that the dual responsibilities of the British Press Council produced a fundamental flaw (Calcutt 1993, p.5).

9.3.9 A considerable amount of evidence has been presented to the Senate Standing Committee on Rights and Obligations of the Media about the effectiveness of the Australian Press Council. The Council has endeavoured to become a more effective and publicly accountable body in recent years, but the legacy of the tag 'publishers' poodle' (Bowman 1988, p.23) still lingers. Even major newspaper organisations have conceded that there is a need for some reform of the Council (Fairfax, Senate submission p.455), and acknowledged that there is a need to include journalists on the Council, for publishers to be more willing to prominently publish adjudications, better informing readers about how to make complaints and naming journalists or editors found to be in breach of the Council's principles. Other critics suggest that as an industry funded body the Press Council is reluctant to take adequate account of prevailing community values (Meadows, Bain, p.552 ff).

The AJA Code of Ethics

9.3.10 Australian journalists adopted a Code of Ethics in the 1940s. This Code is designed to provide guidance on appropriate behaviour and is binding on all members (although not all journalists, especially in the electronic media are members). The Code is enforced in each state by an elected committee, which receives and investigates complaints about breaches and penalises journalists found to be in breach. The effectiveness of these committees varies greatly, and their judgements are confidential. As a result self-regulation of journalistic practice has been of limited effectiveness, ethical decisions are frequently made on the run and journalists have had few opportunities to learn from the experiences of others. It is also important to note that as journalists do not have absolute authority for what is published or broadcast their ethical stands may be overruled by their superiors (Chadwick 1994).

9.3.11 The Code of Ethics has only relatively recently been accepted by the major newspaper organisations, but was accepted by the courts in 1946 (Sparrow 1960, p.156). In 1993 it was incorporated into the Charter of Editorial Independence agreed to by the Board and staff of John Fairfax Ltd. This Code is currently subject to review by an

independent committee of philosophers, lawyers, journalists and writers chaired by Father Frank Brennan, and will be discussed in greater detail in the following section.

9.3.12 The Senate Standing Committee on Legal and Constitutional Affairs is currently examining the rights and obligations of the media and is likely to draw conclusions about the most effective method of self-regulation of the media and journalistic practice. The Senate Committee has been presented with evidence from a wide range of media organisations, academics and interested groups and individuals. This evidence has suggested that there is a need for more effective mechanisms of self-regulation of journalistic behaviour and media practice for both the print and electronic media. Turner has urged that Committee to consider recommending the establishment of a Media Commission (Turner, Senate evidence, pp.500-501) as an independent statutory agency with oversight of the media and journalists, although he conceded that there was not widespread support for such a recommendation (Turner evidence p.512). Others have suggested expanding the Press Council to include representative journalist members and the electronic media (Fairfax, Senate submission p.455).

9.3.13 These national mechanisms of self-regulation provided an essential backdrop for EARC in its consideration of ways of reducing the likelihood of government manipulations of media. EARC considered that these mechanisms could also be used by journalists who felt that they had been victims of government news management treatment.

"First ... the Australian Press Council can consider and investigate complaints about the conduct of persons and organisations towards the press. Although this appears to be little used, the mechanism is there. Second, as suggested by the Queensland Watchdog Committee and Professor Flint, a journalist who has reason to believe that a ministerial media adviser who is a member of the AJA has breached the AJA's Code of Ethics can present a case to the AJA's Judiciary Committee. Third, there was the approach advocated in the submission from the Queensland Parliamentary Press Gallery (S21) and the AJA (S5) that a range of legislative complaints procedures were available. For example, a journalist denied access to official government news conferences could seek reasons, and challenge those reasons, through the Judicial Review Act 1991. The Ombudsman is also able to investigate complaints.

Finally, and probably most effectively, journalists' claim of manipulation by ministerial staff could simply be made public through the media" (EARC para.5.58-5.59).

9.3.14 In a submission to this Committee Mr Gorrie suggested that these mechanisms would not "put the safeguards in place" to prevent such manipulation:

"All those mechanisms are a little imperfect - as would anything be, I suppose. The Press Council generally does a reasonably good job, but it is an industry body. It is Caesar judging Caesar. I have always felt that the AJA ethics has generally done quite a good job. But it is also Caesar judging Caesar. It is not independent. I do not think the processes of the ethics committee are sufficiently public for anyone to be sure that they are getting a fair deal" (Transcript, pp.7-8).

9.3.15 Mr Gorrie maintained that a parliamentary committee would provide the appropriate means for examining journalists' complaints about the Government or about government media collusion:

"I am not EARC, and I have not had the time or the resources to conduct my own review and come up with my own recommendations, but it occurs to me that there could be a parliamentary committee to which politicians as well could perhaps make complaints, because it is a difficult world that politicians find themselves in, I accept, because the media are not always honourable" (Transcript, p.7).

9.3.16 Gorrie rejected the standing scrutiny committees proposed by EARC as adequate for the task because of their main focus on ministerial and departmental media units. Whilst a select Parliamentary Committee with specific terms of reference could be established to investigate specific allegations of media bias or manipulation of the media such an outcome is unlikely in a unicameral Parliament with a powerful executive and government majority. During the public hearing Mr Gorrie was invited to consider other possible mechanisms to investigate government media relationships:

"I would love to see some sort of quasi-judicial public avenue for the hearing of complaints. That in itself would be a tremendous brake — even if it did not do anything else but hold public hearings — on some excesses. That would be an area in which the Government could do something that would have an effect on the media outside the Government. That has been a problem. I suppose" (Transcript, p.12).

9.3.17 Complaints about the media are of course not confined solely to the government media relationship. But for any complaints mechanism to be effective the public must be well informed about how to make a complaint about the print or electronic media. Some newspapers occasionally publish information about the Press Council, and television stations sometimes broadcast information about how to make a complaint. Media organisations should be encouraged to draw public attention to the agencies available to receive complaints about media content and practise.

9.3.18 Given that the present concentration of media ownership in Queensland is unlikely to decrease in the foreseeable future, ways of increasing editorial independence and the accountability of journalists and management become vitally important. The development and implementation of an effective regime of self-regulation is therefore of the utmost importance to ensure public confidence in accountable, accurate and reliable media.

9.3.19 The Committee agrees that self-regulation is the most appropriate method of ensuring media practice of the highest standard. However self-regulation which is not active and alert is meaningless and is likely to lead to demands for stronger regulation, especially at a time when public dissatisfaction with the media is high. In 1993 Sir David Calcutt QC recommended that a statutory tribunal was needed to curb the excesses of the British press (Calcutt 1993). After a vociferous opposition campaign the British Prime Minister indicated that the proposal would not proceed. The Australian media are not as invasive and cavalier as British media, and no Australian committee has favoured statutory regulation. The recent refusal by the print media to accept a code of practice for reporting sieges, proposed by the Federal Minister for Justice and the police and supported by the electronic media, is however a cause for concern (*Panpa Bulletin*, April 1994, p.34). As the level of public dissatisfaction with the media is high, failure by the

media to establish such codes could lead to more insistent demands that governments establish independent statutory agencies to investigate complaints and establish procedures.

9.3.20 The Committee considers that Queensland media outlets should:

- (a) provide feedback to their audiences about media accountability;
- (b) provide regular and adequate information about how to make complaints; and
- (c) report the outcomes of all adjudications prominently within their news pages and bulletins.

9.3.21 The Committee believes that the Australian Press Council should be restructured to become an industry wide Media Council with representatives from the print and broadcast sectors, major media organisations, the journalists' union and the public. The Council should continue to be chaired by an independent figure of high repute and should be adequately resourced. Such a Media Council would address specific complaints about journalistic practice and should not duplicate the work of the Australian Broadcasting Authority.

9.4 Professional Development

9.4.1 For self-regulation to be effective it is imperative that the public and those working in the industry be aware of the mechanisms available and accept their jurisdiction. For this to occur there must be active consideration of the issues of accountability and responsibility within the industry.

9.4.2 Effective self-regulation must be accompanied by professional development and an understanding of professional responsibilities and public interest considerations. As has already been noted, the media welcome their role as the Fourth Estate and the influence this accords. However this role imposes additional responsibilities (Tiffen 1994). Obligations to represent the public interest may not always be self-evident, the public interest may not always be identical to the commercial and professional interests of media companies or their employees.

9.4.3 The Australian media are showing some signs of accepting this responsibility: the development of codes of practice for the electronic media; the enhancement of the Australian Press Council; the agreement to charters of editorial independence; the development of professional practice policies and the review of the journalists' Code of Ethics by an independent committee.

9.4.4 The Brennan Committee currently reviewing the AJA Code of Ethics offers the opportunity to achieve changes in journalists' professional practice. The terms of reference for the review are:

- (a) review the code of ethics and advise on any appropriate changes;
- (b) review the procedures for dealing with complaints through the AJA Judiciary Committee system;

- (c) examine the relationship between Alliance procedures and other media self-regulation, including the Press Council and electronic media codes of practice; and
- (d) examine the relationship between the proper operation of the code and the law, in particular defamation and contempt (MEAA 1993, p.2).

9.4.5 The Brennan Committee was established in response to the Senate's inquiry and the widespread public criticism of journalistic practices. Following the jailing of five journalists for failing to reveal the sources of information given to them in confidence, the journalists' association launched a campaign to secure shield laws, which would permit journalists to honour the promise of confidentiality. It quickly became apparent that such additional privileges would not be granted without evidence that journalists were willing to accept greater responsibility for accountable self-regulation (MEAA 1993).

9.4.6 Although the major Australian publishers are members of the Australian Press Council and endorse its statement of principles, relatively few Australian news organisations have developed policies for media accountability. Attempts to establish media accountability systems are more developed in many other countries (*Press Council News* August 1993, p.11). Failure to establish systems of accountability is contrary to the public interest. A study in 1990 showed that most Australian newspapers were extremely reluctant to publish corrections of errors (Schultz 1990). Furthermore relatively few Australian news outlets actively report the media industry; provide feedback on audience complaints; inform audiences of the prevailing codes of ethics or standards; inform audiences of how they can make complaints and the processes of adjudication; declare other commercial interests or the possible conflicts of interest by individual reporters.

9.4.7 It is important to note that there have been attempts by a number of media organisations to address these problems. Training programs for journalists have also been introduced in most news organisations. Several major newspapers routinely declare the personal interests of journalists, especially when writing about companies in which they have a commercial interest, or on articles produced as the result of free travel etc. The ABC and SBS produce programs actively reporting on the media and broadcast audience feedback and complaints. Several major newspapers have specialist journalists who report on the media. However most newspapers and all electronic media organisations remain reluctant to publish or broadcast corrections.

9.4.8 Two major initiatives in recent years demonstrate that media organisations are considering ways of improving accountability. In 1989 the *Sydney Morning Herald* (SMH) appointed an ombuds to investigate complaints against the paper. Although many news organisations in other western countries employ an ombuds to deal with complaints the experience at the SMH was extremely unsuccessful and lapsed after less than a year (Schultz 1990, pp.9).

9.4.9 At the end of 1993 the Editor-in-Chief of the Herald and Weekly Times, a News Ltd subsidiary, produced a nine page professional practice policy. The policy defines the basic principles of journalism:

"The primary purpose of gathering and distributing news and opinion is to serve society by informing citizens and enabling them to make informed judgements on the issues of the time."

The freedom of the press to bring an independent scrutiny to bear on the forces that shape society is a freedom exercised on behalf of the public.

Journalists are committed to ensure that the public's business is conducted in public, and must be vigilant against anyone who would exploit the press for selfish purposes or seek to restrict the paper's role and responsibilities;

*Good faith with the reader is the foundation of good journalism** (Herald and Weekly Times 1993 p.1).

9.4.10 The policy addresses the detail of acceptable methods of news gathering conduct, and states that the only justification for occasional divergence from the policy's standards of conduct would be because of the 'public interest', which it defines in terms of detecting or exposing major crime, anti social conduct, hypocrisy, falsehoods or double standards. The policy covers measures to enhance accuracy; distinguish between comment and fact; to eliminate misrepresentation, deceptive and illegal practices; to ensure promises of confidentiality are judiciously given and honoured; to avoid discriminatory and stereotyped reporting; to ensure privacy and exercise utmost sensitivity when dealing with grieving and traumatised people; to protect children; to minimise 'chequebook journalism'; reduce conflicts of interest; eliminate plagiarism and image manipulation. It also states that corrections and apologies are the responsibility of editors. The policy was introduced as company policy binding on all employees. It was actively drawn to the attention of the staff, but was not subject to discussion or negotiation with the journalists. As the policy was only introduced in November 1993 its effectiveness can not yet be judged, although the Editor-in-Chief has indicated to staff that infringement of the policy will be a disciplinary matter.

9.4.11 The Committee has been informed that this policy has been discussed by other editors in the News Ltd group with a view to possible adoption. The Committee urges editors in News Ltd and other media companies to seriously consider adopting this policy — or developing a similar policy appropriate for their organisation.

9.4.12 Formal systems of media accountability are of increasing interest to news organisations in many countries as a result of low public regard for the media. Professor Claude-Jean Bertrand suggested that these systems could be divided into three different categories, criticism, monitoring and access. The Australian Press Council has published Professor Bertrand's recommendations and endeavoured to stimulate a debate about these issues here (*Press Council News*, August 1993, p.11). Phil Dickie proposed to EARC a number of practical suggestions for improving media accountability many of which are similar to those suggested by Professor Bertrand:

**1. Remedial Actions*

A general examination of how the newspaper is perceived by prominent organisations and social interests, followed by consideration (some 'perceptions' could be coloured by vested interest) and remedial action where appropriate.

A general examination of existing positive and negative incentives to high quality, ethical journalism followed by appropriate remedial action.

A general examination of factors contributing to poor staff morale, followed by appropriate remedial action.

2. Permanent Mechanisms

Serious internal complaints mechanisms - an Ombudsman perhaps? (Not every complainant is satisfied with letters to the editor (even if published) or wishes to go to the Press Council or the defamation courts).

A stated commitment to commensurate correction of errors.

Development of an internal quality control oversight and guidance mechanism - perhaps the responsibility of a dedicated senior officer.

Ethics related training and guidelines for reporters backed up by a disciplinary procedure.

Guidelines for and greater consultation between reporters and sub-editors over the quality, adequacy, balance and accuracy of submitted copy.

Allocation of space on a regular basis to independent commentary and analysis of media performance (as carried during some previous election campaigns).

A register of letters to the editor listing those received, those published and their stance on particular issues. Register to be 'semi-public', ie can be consulted or referred to or extracts made available, be the subject of investigation etc as necessary.

A much greater union commitment to professional standards raising, promotion of discussion of ethical issues and examination and augmentation of union-based positive and negative incentives to ethical and high standard journalism (Dickie EARC File 009C/45).*

9.4.13 The Committee would encourage the Queensland media to actively consider these suggestions and those of Professor Bertrand.

9.4.14 The question of whether Australian journalists can be rightly regarded as professionals is a matter of considerable debate (Henningham 1988; Lawe Davies 1993; Chadwick 1994; Schultz 1994). Although they may not satisfy the academically agreed definitions of professionalism it is important to note that the self definition of most Australian journalists is that they are 'professionals'.

9.4.15 For a professional culture to develop in journalism there is a need for the journalists' association to provide opportunities for the professional development of its members. An important element of this professional development is further education and training. The Queensland branch of the Media Entertainment and Arts Alliance recently conducted a seminar to discuss the review of the *Code of Ethics* and was encouraged by the large number of journalists who attended as this indicated the active interest of Queensland journalists in ethical issues.

9.4.16 If a vigorous professional culture is to emerge amongst Queensland journalists, more emphasis will need to be placed on the development of a broader range of information gathering skills. As the EARC media release study showed, excessive reliance on government information releases had become common in Queensland journalism. Just as the Government has taken steps to foster a more open culture within the public sector (such as the introduction of Freedom of Information legislation)

journalists should embrace the opportunities this new culture offers. The Committee understands that most media organisations provide training in defamation and contempt law but that training on the use of Freedom of Information legislation has been neglected. Media organisations, or the MEAA, should conduct seminars on the effective use of Freedom of Information to acquaint journalists with the information resources now available to them. If the culture of government media relations is to change significantly journalists will also need to adapt.

9.4.17 In the interests of enhancing the vigilance, accuracy and public regard for the Queensland media, the Committee encourages all media organisations to develop accountability mechanisms. The Committee commends the establishment of the Brennan Committee and urges MEAA to carefully consider its recommendations. The Committee also welcomes the initiative of the Herald and Weekly Times in developing and implementing a Professional Practice Policy and urges all news organisations in Queensland to consider adopting the policy or developing a similar policy. Education and training will also be required if a new regime is to emerge as a result of these initiatives from the MEAA and the Herald and Weekly Times.

9.4.18 Journalists and media organisations are also encouraged to actively inform the public of the professional development policies they develop and the self-regulatory mechanisms available to ensure their implementation.

9.4.19 The Committee considers that:

- (a) Queensland news media organisations should develop and publish a professional practice policy;
- (b) the Media, Entertainment and Arts Alliance should initiate ongoing ethics education and training for its members;
- (c) all Queensland media outlets should provide comprehensive information to the public about the self-regulation mechanisms that are available to complainants; and
- (d) all Queensland media outlets should provide training in the use of Freedom of Information legislation.

9.5 Legal Protection

9.5.1 Legal matters relating to freedom of speech, freedom of the media and the legal protection of journalists have attracted considerable attention in recent years. This interest has focussed on several key issues: the ill-fated attempts to establish uniform defamation laws in Australia; the High Court's decisions in relation to freedom of political speech; the possibility of introducing a tort of privacy; and the campaign by journalists to secure shield laws. As the Queensland Attorney-General pointed out in evidence before the Senate Standing Committee on Legal and Constitutional Affairs:

"The issue of shield laws for journalists is an issue about freedom of the press. It is not however an issue about freedom of speech. It is exactly the reverse. It is an issue about the freedom of the media to withhold certain information. That

information specifically is the name of the source of information on which they based their story. I believe that the law should accord to journalists a prima facie right to withhold such information." (Wells, 18 January 1994, Senate Transcript p.399).

9.5.2 Since 1989 five Australian journalists have been found to be in contempt of court for adhering to their ethical code and refusing to reveal the source of confidential information, as a result they were jailed or fined.

9.5.3 However, there is widespread concern that shield laws would provide a haven for disreputable journalists. The Parliamentary Criminal Justice Committee is strongly opposed to any shield law protection for journalists. Its recent report into the use by *The Courier-Mail* of confidential information obtained from the Criminal Justice Commission recommended against shield laws (PCJC 1993, p.81) (see also the recent decision by Dowsett J on *CJC v The Australian*). The High Court also opposed such protection. It found:

"The recognition of an immunity from disclosure of sources of information would enable irresponsible persons to shelter behind anonymous or even fictitious sources" (John Fairfax v Cojuangco (1988), 82 ALR 6).

9.5.4 However, the Queensland Attorney-General has commented that there is a persuasive public interest reason why journalists should not be compelled to reveal their sources:

"The public interest requires that as much information as possible should be put into the public arena. There are many people who are not prepared to provide information to a journalist if they believe that it is likely that they are going to end up being named. Consequently, that objective of society is best served by having a prima facie right to withhold the source of information" (Wells, 18 January 1994, Senate Transcript p.407).

9.5.5 The scheme advocated by the Attorney gives the journalists' Code of Ethics legal recognition, so that in court a journalist may claim a prima facie privilege for not divulging a source. Notably, the privilege is not absolute. It is subject to the discretion of the court as the court ultimately decides whether a journalist's source ought to be disclosed. The Attorney described a possible scenario:

"The judge would hear a journalist say, 'I have a claim of privilege. I do not wish to divulge my source.' The court would then say, 'I would like to hear argument to the effect that it is necessary that the source be divulged in order to achieve justice in this particular case.' If the judge thinks that there is some prima facie credibility in that argument, then ... [the judge] might very well close the court and hear from the defendant why the public interest does not require the production of the source. So it would be a prima facie privilege which I am suggesting, but one which has got to be taken seriously by a court, which has got to give a court pause and which as got to give the parties the opportunity to discuss the question of whether the public interest requires this information to be placed before the court" (Wells, 18 January 1994, Senate Transcript p.409).

9.5.6 The Senate Standing Committee on Legal and Constitutional Affairs and the Brennan Committee are both currently considering how the ethical responsibility

journalists accept might be more comfortably reconciled with the public interest, and how this could be accommodated by the legal system. Legislation adopted in other countries and that proposed by state law reform commissions is therefore under consideration. As constitutional responsibility for the administration of the courts is a State matter any recommendations by the Senate Committee in this regard would be referred to the Standing Committee of Attorneys-General.

9.5.7 This Committee notes that much of the discussion about shield laws has been couched in terms of a *quid pro quo* for more effective self-regulation. The Committee agrees that the two issues need to be linked. The discussion paper prepared by the Brennan Committee observed:

"External scrutiny and pressure for reform is increasing ... the (former) South Australian Attorney General appears to have tied reform of journalists self-regulatory processes to the possible introduction of legislation to give journalists greater protection from the legal consequences of refusing to disclose their confidential sources."

Perceived failure of self-regulation has prompted some legislative proposals such as a Privacy Bill in SA and a Private Member's Bill in the West Australian parliament in 1992 to outlaw media intrusions into grief ...

Attention to self-regulation by the media is also connected to its credibility as a campaigner for improvements in the legal environment for freedom of expression ... Reform of self-regulation must be a corollary of such efforts to reform laws affecting (freedom of) speech. If legal limits of speech shrink media power grows. Without that, otherwise sound arguments for law reform, from which many would benefit, may be resisted merely because of concern that the main beneficiaries of such reforms would be media people who are perceived already to have too much power and too little responsibility" (MEAA 1993, p.3).

9.5.8 Issues related to legal protection of freedom of expression and the media extend into two other areas, defamation and the issue of freedom of expression, especially following the High Court's recent decisions on freedom of political speech (Waterford 1994).

9.5.9 EARC suggested that under Australian defamation law, media organisations tended to self-censor and at times withheld facts and information from the public which may have been in the public interest (1993, para.2.82). Even the threat of a defamation action can be a powerful intimidation, and as a consequence the economic reality may dictate a cautious editorial policy (Masters 1992b, p.35).

9.5.10 The stringency of the defamation laws in Australia has the effect of limiting freedom of expression (Pullan 1984), many journalists have at least indirect experience of such actions (Masters 1992a, p.18). Journalists and media organisations producing stories which may affect a person's reputation, do so in the knowledge that they may need to defend the information in court. The standards of proof required for journalism may not satisfy the rules of evidence in court, although many journalists are not aware of this.

9.5.11 Further publication must be distinguished from contempt of court: restrictions on publication apply to criminal matters before the courts, but defamation law does not

require that once litigation has commenced public discussion of that subject should cease (see *Wallsteiner v Moir* [1974] 1 WLR 991 at 1004-1005 Lord Denning). An injunction to proscribe further publication of material on the basis that it will prejudice the defamation action, will usually be refused (see *National Mutual Life Association of Australia Ltd v GTV Corporation Pty Ltd* [1989] VR 747 at 759-761 per Ormiston J). Further publication may, of course, provide evidence of malice which could increase the damages awarded if the action is successful.

9.5.12 The crime of contempt of court is committed when publication is likely to interfere with the due process of justice (see *Hinch v Attorney-General of Victoria* (1987) 164 CLR 15; *Attorney-General for NSW v TCN Channel Nine Pty Ltd* (1990) 20 NSWLR 368). In 1987 the Australian Law Reform Commission recommended that journalists should be given thorough training in contempt law (Report 35 1987).

9.5.13 In the United States the watershed judgement of *New York Times Co v Sullivan* overturned the prevailing view that freedom of speech as guaranteed in the United States Constitution had no application in the common law of libel ([1964] 376 U.S. 254). The US Supreme Court unanimously ruled that in the absence of proof of 'actual malice' or 'a reckless disregard for the truth', public officials or public figures could not litigate against those who criticised their official conduct or fitness for office. A reckless disregard for the truth can exist only where the defendant consciously held doubts about the truth of a matter published, a mere indifference to the truth is insufficient. The rationale for the public figure test is the promotion of lively and free debate on issues of public importance. Inaccurate statements are probable in such debate, but the strict application of common law libel rules would prevent the publication even of statements that may be accurate, thus repressing debate (NSW Law Reform Commission 1993, p.176).

9.5.14 The US public figure test removes the liability for even gross negligence and thus encourages the publication of information on public figures. It may therefore facilitate access to information in which the public has a legitimate interest and increase the possibilities for exposure of official misconduct and inefficiency. However, it may also encourage irresponsible journalism.

9.5.15 In the United States the *Sullivan* case gives the constitutional right of free speech a priority over the protection of the reputation of public figures. The Australian and Queensland constitutions do not explicitly protect freedom of speech. There is however a possibility that a 'public figure' defence may develop in Australia as a result of the 1992 decisions of the High Court in *Nairnwide News Ltd v Wills* and *Australian Capital Television Pty Ltd v The Commonwealth* (No2). In both cases the High Court has held that freedom of communication is implied by the doctrine of representative government (Waterford 1994). The defence has not yet been tested, but the High Court case of *Stephens v West Australian Newspapers Ltd* is likely to provide guidance. It should also be noted that Article 19 of the International Covenant on Civil and Political Rights defends the right to freedom of expression in print and other media with the condition that this right may be subject to restrictions as provided by law and where necessary, 'for respect of the rights or reputation of others'.

9.5.16 Defamation laws are not uniform throughout Australia. At common law 'truth' is an adequate defence to an action for defamation in Victoria, South Australia, the Northern Territory and Western Australia. In Queensland, Tasmania and the Australian Capital Territory, the defence must show not only the truthfulness of the statements, but also that

it was for the 'public benefit' that the statements were published (s.376 of the *Criminal Code 1899* (Qld); s.15 *Defamation Act 1957* (Tas); s.6 *Defamation Act 1901* (NSW)). In New South Wales an allegation must be shown to be 'substantially true' and relate to a matter of public interest (s.15 *Defamation Act 1974* (NSW)). As a consequence what may be legally printed in one state may be defamatory in another. This situation gives rise to the practice of 'forum-shopping', where a defamation litigant may choose the jurisdiction in which they are likely to be most successful (see *Gorton v Australian Broadcasting Commission* (1973) 22 FLR 181).

9.5.17 In 1988 the Constitutional Commission recommended that s.51 of the Australian Constitution be amended to give the Commonwealth Parliament power to make laws with respect to 'defamation otherwise than in the course of the proceedings of the Parliament of a State or of a court of a State'. The amendment was designed to empower the Federal Parliament to make uniform laws with respect to all forms of print and electronic media on the subject of defamation (Constitutional Commission 1988, p.656). But this proposal was not put to the Australian electorate in the 1988 referendums (Commonwealth Parliamentary Handbook, 1991, pp.675-676).

9.5.18 In a separate development the Attorneys-General of Queensland, New South Wales and Victoria had concluded that some form of privacy protection was required and that it was appropriate to include a limited form of privacy protection in the law on defamation. The uniform *Defamation Bills* 1991 contained a hybrid form of justification defence of contextual truth. That defence would not be sufficient where the imputation concerned the private affairs of the person's health, home life, private behaviour, personal or family relationships. In these exceptional cases, publication would be lawful only if it could be shown to be in the public interest. A defence would be available where it could be shown that information was responsibly, carefully and fairly obtained and reported and not motivated by ill will or other improper motives (Collins 1991, p.17).

9.5.19 A *Defamation Bill* 1991 was tabled in the Queensland Legislative Assembly on 10 March 1992. The Bill also provided for court-ordered correction statements. The intention of this feature of the proposed legislation, as articulated by the Attorney-General was:

- (1) To provide a quick, efficacious and inexpensive remedy for prospective plaintiffs.
- (2) To establish a procedure which imposes some form of obligation on defendants to consider seriously the publication of the correction statement at an early date after the alleged defamation; and
- (3) To incorporate in this procedure a facility for mediation or some form of alternative dispute resolution" (Wells 1991, p.9).

9.5.20 The *Defamation Bill (Qld)* 1991 lapsed with the dissolution of Parliament on 25 August 1992. An identical Bill presented to the New South Wales Parliament on 25 August 1992 was criticised by its Legislation Committee which recommended that privacy should be protected through separate legislation. In any event the Committee understands that efforts toward uniform State defamation laws have now broken down and that the Bill is unlikely to be reintroduced to Parliament until there is uniform agreement.

9.5.21 This Committee considers that freedom of speech in the media is of considerable importance in a democratic society, and recognises that the existing laws may inhibit such freedom of expression. Further, the Committee considers that all Queensland journalists should be given the opportunity for advanced training in the laws of contempt and defamation. They should also be familiarised with the relevant legal process and the rules of evidence.

9.5.22 THE COMMITTEE RECOMMENDS that the Attorney-General urge the Standing Committee of Attorneys-General to:

- (a) again consider the introduction of uniform defamation laws; and
- (b) develop uniform shield laws.

9.6 Democratic Role of the Media

9.6.1 The media are central institutions in an effective and open democratic society, but public confidence in the media exercising this role has diminished. The ways in which the media can achieve the full potential of the democratic role they claim has been the subject of vigorous academic debate in recent years (Keane 1991, Lichtenberg 1990). As Associate Professor Rodney Tiffen has written, there is an "obvious brittleness [in] equating freedom of the press with a property right in an age of oligopoly":

"The aspirations for freedom of speech and for democratic choice and accountability are the foundation of our thinking about the social role the media should play. However this rhetoric has fallen into disrepair as a serious agenda for evaluating media performance and institutions ..."

... We would not leave our political liberties to the noblesse oblige of the state, but we are asked to leave our most vital processes of political communication to the noblesse oblige of media corporations ... (Tiffen 1994, pp.54, 62).

9.6.2 The media are a very significant industry and the commercial imperatives may at times seem to run counter to the public interest. Accountable media systems which elevate democratic values are not cost free, but the benefits are likely to outweigh the costs. Although some media owners may argue their "is a private enterprise owing nothing whatever to the public ... affected with no public interest ... the property of the owner who is selling a manufactured product at his own risk" (Peterson 1956, p.73), most accept the legitimacy of the public role of the media.

9.6.3 Tiffen has proposed a series of tests to judge whether the media are fulfilling their role in the democratic system. These tests are that the media: disclose information and enlarge the scope of public knowledge about the state and other centres of power; provide a forum for dissenting ideas; provide adequate redress for those aggrieved by media coverage; be partisans of the democratic process; provide access and diversity of news and information; enhance collective choice by defining problems and searching for and evaluating alternatives (1994, pp.64-66). On these tests Tiffen considers that the Australian media has performed most strongly in disclosing information and protecting basic liberties, that it has occasionally fostered access and diversity, but rarely extended the reporting on policy beyond the conflicts between parties and pressure groups. In

Tiffen's view the most glaring failure has been in providing redress for those aggrieved by media coverage.

9.6.4 This theme has been developed by the Brennan Committee, in its discussion paper it noted:

"... any group which is seen to exercise power without accountability loses credibility. If journalists lose credibility among the public they undercut their primary function of holding to account others who exercise power. A public without confidence in its journalists is less free" (MEAA 1993, p.2).

9.6.5 The Committee agrees that the issue of public confidence in the media and journalists is of utmost importance in the effective functioning of a democratic society. The public are demanding greater accountability from all major institutions, and the media are one of the most important institutions. Failure to recognise and respond to these public demands may not only have commercial consequences, but could lead to increased demands for statutory regulation of media and journalistic practices.

9.6.6 At times it is likely that a vigorous and energetic media will be in conflict with the Government. It is however in the interests of the electorate to have media which recognises and accepts the responsibilities the Fourth Estate imposes, rather than a docile media which fails to expand the scope of public knowledge, or media which abuses power for its own advantage. To ensure that this is done in a way which recognises the primacy of the public interest the Committee encourages media organisations and journalists in Queensland to develop effective and meaningful methods of self-regulation and public accountability, so that the democratic potential of the media may be realised.

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APPENDIX A - COPY OF COMMITTEE'S ADVERTISEMENT CALLING FOR SUBMISSIONS



PARLIAMENTARY COMMITTEE FOR ELECTORAL AND ADMINISTRATIVE REVIEW

CALL FOR SUBMISSIONS

on an Electoral and Administrative Review Commission Report on REVIEW OF GOVERNMENT MEDIA AND INFORMATION SERVICES

The Parliamentary Committee for Electoral and Administrative Review is an advisory Committee of the Legislative Assembly of Queensland. One of its functions is to examine reports of EARC and to report to the Legislative Assembly on any matter appearing in or arising out of any such report.

The Committee has received a report from EARC on the operation of government media and information services.

The Committee is inviting written submissions from members of the public and increased parties to assist in its review of the report. The Committee has copies of all submissions made to EARC and it is not necessary to restate such a submission to this Committee. Submissions should relate to matters appearing in or arising out of EARC's report.

Submissions should be forwarded by 12.00 noon Friday 2 July 1993 to:

The Research Director
Parliamentary Committee for Electoral and Administrative Review
Parliament House
Cnr George and Alice Streets
BRISBANE QLD 4000

Copies of EARC's reports are held in major public libraries and some Magistrates Courts throughout Queensland and are available for purchase from GOVERNMENT OFFICES (the government printer) at 371 Vulture Street, Woodrogha or 135 George Street, Brisbane, office hours 8.30am to 4.30pm. Submissions made to the Committee will be treated as public documents unless confidentiality is determined otherwise. Requests for confidentiality should be clearly marked.

Further enquiries may be made to the Research Director
Telephone: (07) 286 7631 or Facsimile: (07) 210 0128.
Dr Lesley Clark MLA, Chairman

APPENDIX B - SUBMISSIONS RECEIVED

Peter Read
Acting Director General
Queensland Health
GPO Box 48
BRISBANE QLD 4001

Jamie Lord
Committee Member
Market Research Society of Aust (Qld)
GPO Box 1879
BRISBANE QLD 4001

Jack Lunn
Editor-in-Chief
Queensland Newspapers
GPO Box 130
BRISBANE QLD 4001

Gerard Carney
Associate Professor of Law
Bond University
University Drive
ROBINA QLD 4226

D I Marshall
23 Karowara Street
THE GAP QLD 4061

D G Stevenson
Director-General
Queensland Department of Transport
GPO Box 1549
BRISBANE QLD 4001

K M O'Shea
Crown Solicitor
GPO Box 149
BRISBANE QLD 4001

Professor Cameron Hazlehurst
Head, School of Humanities
Queensland University of Technology
PO Box 284
ZILLMERE QLD 4034

Mal Grierson
Deputy Director-General
Government Services
Administrative Services Department
GPO Box 2457
BRISBANE QLD 4001

Bob Gordon
Editor
The Sunday Mail
Queensland Newspapers Pty Ltd
GPO Box 130
BRISBANE QLD 4001

Arthur Gorrie
PO Box 292
YANDINA QLD 4561

Tony Koch
The Courier Mail
Queensland Newspapers Pty Ltd
GPO Box 130
BRISBANE QLD 4001

D R Luttrell
Executive Director
Information Policy Board
Department of the Premier,
Economic and Trade Development
PO Box 185
BRISBANE QLD 4001

Geoff Turner
Department of Journalism
UNIVERSITY OF QUEENSLAND 4072

Chris Perkins
Joint Branch Secretary
Media Entertainment & Arts Alliance
32 Little Edward Street
SPRING HILL QLD 4004

Paul Breslin
Director-General
Department of Minerals and Energy
GPO Box 194
BRISBANE QLD 4001

Mike D'Arcy
Queensland Parliamentary Press Gallery
Parliament House
George Street
BRISBANE QLD 4000

Greg Chamberlin
Manager Editor
Gold Coast Publications Pty Ltd
PO Box 1
SOUTHPORT QLD 4215

Ms Ruth Matchett
Director-General
Department of Family Services and
Aboriginal & Islander Affairs
GPO Box 806
BRISBANE QLD 4001

C Emerson
Director-General
Department of Environment and Heritage
PO Box 155
BRISBANE ALBERT STREET QLD 4002

Mr John Wakely
300 Ernest Street
LOTA QLD 4179

Brian Fitzgerald
Lecturer
Griffith University Law Faculty
Griffith University
NATHAN QLD 4111

John Orr
3/51 Amelia Street
COORPAROO QLD 4151

The Hon J Fouras
Speaker of the Queensland Parliament
Parliament House
George Street
BRISBANE QLD 4000

B Stewart
Director-General
Queensland Emergency Services
GPO Box 1425
BRISBANE QLD 4001

B Rollason
Auditor-General
Queensland Audit Office
GPO Box 1139
BRISBANE QLD 4001

The Secretary
PATCH
PO Box 110
MILES QLD 4415

APPENDIX C - THE COMMITTEE'S RESPONSE TO EARC'S RECOMMENDATIONS

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that the following information disclosure rule be adopted by state government agencies and local authorities:</p> <p>Disclosure of Official Information. Officials may disclose official information which may be released with lawful authority to any member of the public.</p> <p>An officer may disclose official information except where -</p> <p>(a) authority for its release has been explicitly denied or withheld; or</p> <p>(b) lawful authority for its non-disclosure is required.</p> <p>An official shall not disclose information obtained from a non-government source, without the consent of the supplier, unless -</p> <p>(a) the information was supplied for a purpose which permits its disclosure; or</p> <p>(b) there is lawful authority for the disclosure. (para.3.92)</p>	<p>THE COMMITTEE RECOMMENDS that Departments and agencies including the Parliamentary Service Commission, and local authorities adopt EARC's disclosure rule following redrafting to clarify its intent. (para.4.1.18)</p>
<p>The Commission recommends that government agencies and local authorities conduct an immediate review of duty statements to determine the appropriate level of authority for the release of official information. (para.3.111)</p>	<p>Endorsed</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that the following rules on disclosure of information should be incorporated in the Queensland Cabinet Handbook.</p> <p>(a) as Executive Councillors - secrecy should prevail;</p> <p>(b) as a Member of cabinet - the workings of cabinet should remain secret in accordance with the doctrine of collective responsibility, whilst other information should be subject to the public interest test and the common law; and</p> <p>(c) as an individual minister - subject to legislation and the common law an individual minister should be accountable for the disclosure or non disclosure of information. (para.3.165)</p>	<p>Endorsed</p>
<p>The Government should ensure that media releases are distributed equally to all relevant media outlets and Members of the Legislative Assembly (para.4.84).</p>	<p>THE COMMITTEE RECOMMENDS that media outlets and MLA's should have access to media releases relevant to their geographical area and subjects of particular interest to them. (para.5.2.8)</p>
<p>The Commission recommends that elected and appointed public officials provide information honestly and in good faith when they provide briefings to the media no matter what form the briefing takes (para.4.126).</p>	<p>THE COMMITTEE recommends that:</p> <p>(a) ministerial staff develop a code of conduct that is relevant to their occupational group; and</p> <p>(b) MEAA develop a code for members who are employed as government media advisers that adequately addresses the ethical issues particularly relevant to their role. (para.5.4.15)</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that</p> <p>(a) the Cabinet Handbook be amended to ensure that all Ministers are made aware of their constitutional responsibilities to act in the public interest and not to disclose confidential information or government information likely to injure the public interest.</p> <p>(b) the Code of Conduct be amended to recognise appointed public officials' legal responsibilities to act in the public interest and not to disclose confidential information or government information likely to injure the public interest. (para.4.186)</p> <p>(c) the Criminal Code be amended to place an obligation on former officials not to disclose confidential information acquired during their term of office (para.4.186).</p>	<p>Endorsed (see para.4.4.10)</p> <p>THE COMMITTEE RECOMMENDS that the Attorney-General conduct a review of requirements on former public officials not to disclose information acquired during their term of office. (para.4.3.16)</p> <p>THE COMMITTEE RECOMMENDS that the Criminal Code 1899 be amended to clarify the persons who are covered by the Code. (para. 4.3.6)</p> <p>THE COMMITTEE RECOMMENDS that:</p> <p>(a) the Auditor-General continually monitors entertainment costs and other costs associated with liaison activities with media personnel at public expense;</p> <p>(b) the Aviation Service must keep a record of all passengers for every trip when the media accompany a Minister and this is to be open for inspection at all times;</p> <p>(c) the media should acknowledge any free air travel in any subsequent story. (para.5.3.14)</p>
<p>The Commission recommends that:</p> <p>(a) details of all expenditure recorded by the Ministerial Expenditure Unit be tabled annually in the Parliament; and</p> <p>(b) the government recovers the cost of transporting journalists on government aircraft (para.4.207).</p>	<p>THE COMMITTEE RECOMMENDS that the Parliamentary Service Commission should assess the demand for a media monitoring service that would provide access to all MLA's media statements; and</p> <p>(b) Ministerial Offices should include the Parliamentary Library on their distribution list for faxed media releases at the time of their release. (para.5.2.17)</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that:</p> <p>(a) press conferences and media briefings be available for representatives from all media outlets to attend. Invitations should not just be issued to a select group but media briefings should be open, and seen to be open, to all media outlets; and</p> <p>(b) it is improper for the Government to deny or withhold information to one medium where it is available to another (para.4.229).</p>	<p>THE COMMITTEE ENDORSES EARC's recommendation that it is improper for the Government to deny or withhold information to one medium where it is available to another and recommends that any journalist should be able to attend Government media conferences. (para.5.2.36)</p>
<p>The Commission recommends that:</p> <p>(a) the Premier's Department publish the staff establishment and other relevant details of Ministerial Offices each year in its Annual Report; (para.5.45)</p> <p>(b) the Parliamentary library should monitor the media statements of all Members of the Legislative Assembly; and</p> <p>(c) the Parliamentary Service Commission implement a simple system for the collection and dissemination of all Members' media releases (para.5.45)</p>	<p>Endorsed</p>
<p>The Commission recommends that:</p> <p>(a) the relevant Committees of the Queensland Legislative Assembly periodically monitor the costs and operations of ministerial and departmental media and information units and report their findings to Parliament; (para. 5.65)</p>	<p>THE COMMITTEE RECOMMENDS that the Parliamentary Service Commission should assess the demand for a media monitoring service that would provide access to all MLA's media statements; and</p> <p>(b) Ministerial Offices should include the Parliamentary Library on their distribution list for faxed media releases at the time of their release. (para.5.2.17)</p> <p>THE COMMITTEE recommends that responsibility for monitoring the costs and activities of ministerial and departmental media and information units and ensuring compliance with requirements for annual reports be given to the Legislative Assembly's Standing Committees as proposed by this Committee. (para.8.3.8)</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
(b) the Privileges Committee investigate compliance with the Order (para.5.65).	Rejected (see 8.3.11)
The Commission recommends that: (a) the staff establishment of the Opposition parties should be maintained at 20% of that of ministerial offices and reflect parity with the salary profile of ministerial staff; (para.5.99)	Previously referred to Parliamentary Service Commission (see 8.1.9 and PCEAR 1992, para.4.50)
The Commission recommends that: (b) appropriate level 2 and 3 Codes of Conduct be developed for ministerial staff (para.5.99).	THE COMMITTEE recommends that: (a) ministerial staff develop a code of conduct that is relevant to their occupational group; and (b) MEAA develop a code for members who are employed as government media advisers that adequately addresses the ethical issues particularly relevant to their role. (para.5.4.15)
The Commission recommends that Ministerial Media Advisers: (a) should continue to be employed on a contract basis. Each contract should be individually negotiated but should not exceed the term of the Government; and (b) should not be subject to PSMC selection standards (para.5.126).	Endorsed
The Commission recommends that the Directors-General of departments to account for the information presented to Parliament in Annual Reports (para.6.30).	THE COMMITTEE recommends that responsibility for monitoring the costs and activities of ministerial and departmental media and information units and ensuring compliance with requirements for annual reports be given to the Legislative Assembly's Standing Committees as proposed by this Committee. (para.8.3.8)

EARC RECOMMENDATION	COMMITTEE RESPONSE
The Commission recommends that the Department of Family Services and Aboriginal and Islander Affairs formally develops publication guidelines for departments which accommodate the needs of non-English speaking persons. These guidelines should indicate which publications should be reproduced in a language other than English (para.6.37).	THE COMMITTEE RECOMMENDS that all agencies address the issue of cultural diversity in their communication strategies. To assist this process the Department of Family Services and Aboriginal and Islander Affairs should develop: (a) publication guidelines for departments which accommodate the needs of non-English speaking persons. These guidelines should indicate which publications should be reproduced in a language other than English; and (b) guidelines for all agencies directing information to Aboriginals and Torres Strait Islanders. (para.6.2.10)
The Commission recommends that formal guidelines be developed and published by the Information Policy Board for the evaluation of the effectiveness of departmental and agency publications. These should include as a minimum: (a) criteria as to the specific categories of publications for which evaluation will be required; (b) a range of detailed methodologies to suit the particular circumstances of publications the subject of evaluation (para.6.102).	THE COMMITTEE ENDORSES EARC's recommendation that guidelines should be developed for the evaluation of the effectiveness of government publications. These guidelines should include: (a) criteria as to the specific categories of publications for which evaluation will be required; and (b) a range of detailed methodologies to suit the particular circumstances of publications subject to evaluation. (para.8.2.7)
The Commission further recommends that accountable officers of departments and agencies develop reliable systems to cost the actual production costs of publications (para.6.103).	Endorsed
The Commission recommends that these guidelines make explicit the requirement that the purpose of government publications is the provision of relevant information and not promotion of government or 'corporate' image (para.6.104).	Endorsed

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that if the general directions of the content and distribution of the Media Information Summary are to remain unchanged, the Premier's Department Library be relieved from the responsibility for its production and that role be assumed by GoPrint (para.6.132).</p> <p>The Commission further recommends that GoPrint offer this publication for sale at a price that would return its cost of production (para.6.133).</p>	<p>Rejected (see para.5.2.11)</p>
<p>The Commission recommends that decisions by government agencies on the price of publications should take into account a comprehensive costing of the publication, including staff and other internal resources expended in their production (para.6.161).</p>	<p>Endorsed</p>
<p>The Commission recommends the establishment of more regional outlets for government publications including QGAPP offices, regional offices, Commonwealth Bookshops, private newsgagents and bookshops (para.6.174).</p>	<p>Endorsed</p>
<p>The Commission recommends that accountable officers of agencies continue to bear responsibility for the content, style and timing of information campaigns (para.7.56).</p>	<p>Endorsed</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that the guidelines ... be adopted for use by agencies in developing information campaign strategies (para.7.64).</p>	<p>THE COMMITTEE RECOMMENDS adoption of the guidelines in Appendix D for the production of all promotional or advertising material paid for from the Public Account. (para.6.1.16)</p>
<p>The Commission recommends that guidelines contain a directive to the effect that:</p> <p>(a) government agencies should not disseminate information that is designed to secure or promote support from the public for a political grouping, or advance the interests of the government over any other parliamentary grouping; and</p>	
<p>(b) information and promotional material contain clear authorisation which includes the name and title of the relevant accountable officer and the agency from which the material originates;</p>	
<p>(c) media placement of government advertising is determined on a needs basis and is targeted accordingly and without favour (para.7.112)</p>	
<p>The Commission recommends that guidelines contain a general directive to the effect that public feedback in regard to departmental activities by formally recorded and collated for the purposes of more effective future client targeting. Feedback should also be reported for the purposes of policy development (para.7.118).</p>	<p>Endorsed</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that guidelines contain a directive to the effect that content of information campaigns and the choice and mix of media adopted should hinge upon active consideration of audience characteristics such as ethnicity, literacy, geographic isolation and social networks (para. 7.119).</p> <p>The Commission recommends that:</p> <p>(a) guidelines direct that information campaign requirements be addressed in the development of government programs; and</p> <p>(b) where programs and other policy initiatives will require a campaign of information dissemination, Cabinet submissions relating to those programs and initiatives contain a description of the nature, objectives, likely extent and projected cost of that campaign (para. 7.127).</p>	<p>THE COMMITTEE RECOMMENDS adoption of the guidelines in Appendix D for the production of all promotional or advertising material paid for from the Public Account. (para. 6.1.16)</p>
<p>The Commission recommends that the Information Policy Board:</p> <p>(a) be entrusted with the role of co-ordination of agency communications activities and be appropriately resourced to perform this role; and</p> <p>(b) assume responsibility for development of standards in regard to propriety and implementation of agency information dissemination initiatives (para. 7.137).</p> <p>The Commission recommends that involvement of the Information Policy Board in agency information dissemination activity be at the discretion of the accountable officer, but accountable officers should in any event notify the IPB of proposed campaigns (para. 7.138).</p>	<p>THE COMMITTEE RECOMMENDS that the Premier's Department should be responsible for the co-ordination and policy development of government communications and information campaigns. (para. 7.2.24)</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that guidelines make explicit that the role of government information campaigns is to facilitate the processes of government and the well-being of the public. Information campaigns should provide comprehensive factual information (para. 7.159).</p> <p>The Commission recommends that guidelines contain a directive that evaluation processes be specified in any proposal for an information campaign, and that evaluation processes be developed (para. 7.179).</p>	<p>THE COMMITTEE RECOMMENDS adoption of the guidelines in Appendix D for the production of all promotional or advertising material paid for from the Public Account. (para. 6.1.16)</p>
<p>The Commission recommends that the Public Finance Standards be amended to require</p> <p>(a) annual reports to include details of all expenditure on consultancy services commissioned for the purposes of information campaigns. These details should include the names of consultant organisations and individuals, a description of the purposes for which consultancy services have been commissioned, and the costs of those services; and</p> <p>(b) inclusion of details of promotion campaigns in annual reports of government agencies. These details should include a description of the nature and purposes of each individual promotional campaign, and expenditures upon each individual campaign (para. 7.180).</p>	<p>THE COMMITTEE ENDORSES EARC's proposed amendments to the <i>Public Finance Standards</i> but recommends that they be subject to review by a parliamentary committee at an appropriate time. (para. 8.1.7)</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that:</p> <p>(a) the Information Policy Board take over the role of a central office of information and advertising. The IPB should have its terms of reference and activities expanded to include the provision of a central reference point for all information and communication policy development;</p> <p>(b) the secretariat for all IPB Committees be drawn from the Premier's Department; and</p> <p>(c) the IPB should continue to circulate proposed standards and receive input from departments and agencies before finally formulating policy (para.8.81).</p>	<p>THE COMMITTEE RECOMMENDS that the Premier's Department should be responsible for the co-ordination and policy developments of government communications and information campaigns. (para.7.2.24)</p>
<p>The Commission recommends that the Queensland Cabinet Handbook be amended to emphasise the importance of public communication in the development and implementation of public policy (para.8.118).</p>	<p>Endorsed</p>
<p>The Commission recommends that:</p> <p>(a) all agencies should have a communications strategy;</p> <p>(b) agency communication strategies should be based on the public's right to know; and</p> <p>(c) agency policies should incorporate communication strategies into the conceptual, development and implementation stages of the policy programs (para.8.157).</p>	<p>Endorsed</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that guidelines regarding the purchase and accessibility of market research should be developed and issued through the Information Policy Board. Such guidelines should include the following principles:</p> <p>(a) no market research should be undertaken unless there is an established and documented need;</p> <p>(b) market research undertaken by government departments should be included in a central register kept current by the Information Policy Board with regular notifications of research issued to departments;</p> <p>(c) market research undertaken by government departments and agencies should be available to the public through FOI;</p> <p>(d) the Information Policy Board should be required to Gazette additions to its Register; and</p> <p>(e) market research should not be undertaken by government departments or agencies if it involves research concerned with voting intentions; or if it is intended to promote the government (para.8.193).</p>	<p>THE COMMITTEE ENDORSES the intent of EARC's recommendations in relation to a central register of market research. (para.6.2.4)</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that a Media Standard be developed in conformity with the Commission's suggested Code of Conduct (8.1.2). Such a Standard should include the following principles:</p> <p>(a) agencies should liaise with the media on a regular basis as a means of promoting information about agency services;</p> <p>(b) matters that involve statewide issues, policy issues/interpretation or an expression of official opinion are to be dealt with by either a senior agency official or the Minister's office;</p> <p>(c) agencies should be obliged to make media comment on issues that fit into the following categories:</p> <p>(i) concern a small local issue (ii) require factual information only (iii) concern the provision of services by the agency;</p> <p>(d) agency media releases should be clearly identified with the agency and should include the name and contact number of a contact officer; and</p> <p>(e) media releases should be issued to all relevant media outlets so as to ensure fair distribution of government information (para.8.229).</p> <p>The Commission recommends that government agencies provide media training for senior officers (para.8.238).</p> <p>The Commission recommends that performance indicators specific to the operations of the media and information units be devised, used and reported to Parliament (para.8.273).</p>	<p>Endorsed (see para.4.2.6)</p>
<p>Rejected (see para.8.3.6)</p>	

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that the Public Finance Standards be amended to require departments' and agencies' Annual Reports to itemise expenditure on:</p> <p>(a) advertising agencies;</p> <p>(b) market research organisations;</p> <p>(c) polling organisations;</p> <p>(d) public relations firms;</p> <p>(e) media advertising placement organisations;</p> <p>(f) direct mail communications;</p> <p>(g) printing and reprographic services; and</p> <p>(h) any other consultants and services (para.8.274).</p>	<p>THE COMMITTEE ENDORSES EARC's proposed amendments to the <i>Public Finance Standards</i> but recommends that they be subject to review by a parliamentary committee at an appropriate time. (para.8.1.7)</p>
<p>As the Bill for the Queensland Parliament Act has not yet been introduced, a sub-section (d) should be added to s.38 to add a specific responsibility for monitoring:</p> <p><i>"(e) the costs and activities of ministerial and departmental personnel and units which have responsibility for matters connected with the media and the provision of information to the public generally"</i> (para.8.291).</p> <p>The five scrutiny committees previously recommended by the Commission should be given a specific responsibility for monitoring the costs and activities of ministerial and departmental media and information units (para.8.292).</p>	<p>THE COMMITTEE recommends that responsibility for monitoring the costs and activities of ministerial and departmental media and information units and ensuring compliance with requirements for annual reports be given to the Legislative Assembly's Standing Committees as proposed by this Committee. (para.8.3.8)</p>

EARC RECOMMENDATION	COMMITTEE RESPONSE
<p>The Commission recommends that the Information Policy Board develop policy/guidelines for all agencies directing information to Aborigines and Torres Strait Islanders (para.8.320).</p> <p>The Commission recommends that all agencies address the issue of cultural diversity in their information plans (para.8.321).</p>	<p>THE COMMITTEE RECOMMENDS that all agencies address the issue of cultural diversity in their communication strategies. To assist this process the Department of Family Services and Aboriginal and Islander Affairs should develop:</p> <p>(a) publication guidelines for departments which accommodate the needs of non-English speaking persons. These guidelines should indicate which publications should be reproduced in a language other than English; and</p> <p>(b) guidelines for all agencies directing information to Aborigines and Torres Strait Islanders. (para.6.2.10)</p>
<p>—</p>	<p>THE COMMITTEE RECOMMENDS that the Attorney-General urge the Standing Committee of Attorneys-General to:</p> <p>(a) again consider the introduction of uniform defamation laws; and</p> <p>(b) develop uniform shield laws. (para.9.5.22)</p>

APPENDIX D - DRAFT GUIDELINES FOR QUEENSLAND GOVERNMENT PUBLICITY, ADVERTISING AND COMMUNICATIONS

1 INTRODUCTION

- 1.1 These guidelines provide general instructions for ministers and government agencies in the preparation of and expenditure on advertising, publicity and communications.
- 1.2 For the purposes of this document, 'Government advertising, publicity and communications' means any advertisement, promotional campaign, public relations campaign, seminar, public display or exhibition, announcement or means of publicising or advertising any government product, service, activity, program or initiative which is paid for from the public account.
- 1.3 This definition does not include publicity such as ministerial statements, media releases, and official briefing material. The definition also excludes discussion papers and reports presented to Parliament except where these are made available for general distribution.
- 1.4 These guidelines apply to the conduct of these activities through printed, audio or audio-visual and other electronic media, although this definition is not exclusive.

2 PRINCIPLES

- 2.1 All members of the public have equal rights to access comprehensive information about government policies, programs and activities which affect their entitlements, rights and obligations, except where access to this information would represent a breach of government responsibilities. In this respect the presumption should be that information is freely accessible unless specifically exempt from disclosure under the *Freedom of Information Act 1992*.
- 2.2 Government may legitimately use public funds for publicity and advertising to explain policies and programs, to fulfil statutory requirements for information provision and to inform members of the public of their entitlements, rights and obligations.
- 2.3 The role of government information provision is the facilitation of the processes of government and the well-being of the public. Information campaigns should be directed at the provision of objective, factual and explanatory information. Information campaigns should not intentionally promote party-political interests.
- 2.4 Information provision through publicity and advertising is an integral part of the development and management of government programs. Communication is an integral part of public policy development.
- 2.5 Government publicity and advertising should deal only with matters where the government has direct responsibility. Types of suitable uses may be to:

- (a) inform the public of new, existing or proposed government policies, as well as revisions of policies;
 - (b) inform of government services to which the members of the public have a legitimate entitlement; as well as new entitlements or revisions to entitlements;
 - (c) inform the public of their legal obligations, as well as new or proposed obligations or revisions of obligations;
 - (d) disseminate specialist or scientific information;
 - (e) encourage social behaviour generally held to be in the public interest (for example the avoidance of drink-driving); and
 - (f) facilitate accountability to the public through the provision of information upon performance of government.
- 2.6 Government publicity and advertising should be presented in such a manner that it provides information and is:
- (a) *Accurate and Honest.* Presentation should contain only claims which can be substantiated, which are accurate, and which are free of deliberate exclusion or misrepresentation. Comment or analysis should be identified as such.
 - (b) *Fair and non Party Political.* Material should be objective and not attack persons or groups of persons. Content tone and presentation should not be party political. It should avoid party political slogans and should not directly attack the policies and opinions of opposition parties or groups. Opinion should be easily distinguished from fact. Appearances or representations of ministers can be a sensitive issue and should be approached accordingly.
 - (c) *Sensitive.* Presentation should be sensitive to the dignities, needs and values of the groups to whom it is directed. Presentation, wherever possible, should avoid the use of sexist or racist language.
 - (d) *Lawful.* Presentation should comply with the law.

3 APPLICATION

- 3.1 Demand for services should be managed through the application of eligibility criteria. It is not acceptable to ration demand for a service by not informing persons of their eligibility.
- 3.2 Statutory or administrative requirements for consultation with public and private sector organisations or groups in the planning, construction and implementation of publicity, advertising and other information activities must be observed. The information campaign should have an appropriate regime of controls including a statement of the objectives of the campaign and the evaluation process. Funding for evaluation should be included in initial project funding projections.

- 3.3 Information campaigns should not be initiated unless needs have been identified through formal or informal market research. Informal research, for example, could include monitoring of client requests, media comment upon an issue, or correspondence to an agency or ministerial office.
- 3.4 The group/s at which the campaign is directed should be formally specified. Targeting those most in need of information is both an efficient and effective means of prioritising expenditure for information dissemination.
- 3.5 The content of information campaigns and the choice and mix of media adopted should hinge upon active consideration of audience characteristics such as ethnicity, literacy, geographic isolation and social networks.
- 3.6 Feedback from the public in regard to agency activities should be formally recorded and collated for the further development of policy. Feedback should also be reported for the purposes of targeting further information needs.
- 3.7 Advertisements and other promotional material may carry the designation 'Queensland Government' and/or the state coat-of-arms although these should not be used in conjunction with the political party of the Government.
- 3.8 Care should be taken to ensure that media placement of government advertising is determined on a needs basis and targeted accordingly and without favour.

Distribution

- 3.9 Major policy proposals may be presented to Parliament as discussion papers or reports. These may be distributed unsolicited to media outlets and interest groups, but should not be distributed unsolicited to the public. Copies should generally be offered to the public upon request either free or on a cost-recovery basis. Consideration should be given to the opportunity for public submission and comment.
- 3.10 Brief factual documents and leaflets informing of new developments in policy or entitlements, or upon issues relevant to the public interest such as public health and safety may be distributed unsolicited to the public, especially where the information clearly and directly affects their interests or where these documents represent one element of a wider promotional strategy.

External Production Services

- 3.11 Public relations, market research, advertising and other specialist agencies and consultants should be commissioned as required for the development of advertising and publicity where appropriate authority has been sought and formally granted. The procedures for the tendering and commissioning of services, and the employment of consultants, as specified in the State Purchasing Policy, should be followed.
- 3.12 Where the services of external organisations or consultants are commissioned, formal acknowledgment should be obtained that the product of those services will conform to these Guidelines.

- 3.13 These organisations or consultants should be provided with a clear statement of the philosophy of the commissioning organisation, the target audience, the objectives of the activity, and the budget and timetable within which the activity is to be achieved.
- 3.14 Costs incurred in commissioning and retaining external services are to be detailed in the agency's annual report, as specified in the Public Finance Standards.

Pricing

- 3.15 Government publications, particularly those relating to 'non-governmental' operations such as scientific research, often differs little in its character from like information produced in the private sector. It such cases the information is owned by government in the same way that a private sector enterprise would claim ownership of trade secrets. The instructions for the pricing of publications should comply with the *Public Finance Standard 320*, the relevant Practice Statements and the Draft Principles for the Protection and Beneficial Use of Crown Copyright and Intellectual Property. Generally, charges should not apply where the publication is a public good or where users are assessed not to have the capacity to pay. Where publications represent elements of both a public and a private good, that part considered to be a 'public good' is to be provided without charge. Nevertheless, the public should expect a return on their investment in the development of that part of the publication that is a 'private good'. The publication should be accurately costed and the 'public good' component identified.
- 3.16 Charges should reflect the cost of provision of the publication market rates for comparable publications and impediments charges are likely to create to the social objectives implicit in the delivery of the information. Further, charges should not apply where they are insignificant or where administrative the costs of charging are likely to exceed the revenue to be realised through their application.

Accountability

- 3.17 Government is accountable to the Parliament for the expenditure of public funds. Government publicity and advertising should be conducted only where a need for these can be formally demonstrated. Agencies should be able to fully justify costs.
- 3.18 Chief Executive Officers are responsible under s.36 of the *Financial Administration and Audit Act 1977* for the conduct of information campaigns and compliance of their organisations with the criteria expressed in these Guidelines. The guidelines are to be read in conjunction with the Public Finance Standards and other requirements that govern the expenditure of public funds.
- 3.19 Every piece of promotional or advertising material should include a clear attribution to the agency responsible for it.

References

These guidelines have been formulated with reference to:

- Suggested Guidelines for a Convention on Publicly-Funded Government Advertising and Publicity*, New Zealand Audit Office, 8 April 1989.
- New Zealand Government Guidelines for Government Advertising*, 20 November 1989.
- Departmental Publicity Conventions* - U.K. Cabinet Office, 5 April 1985.
- Publicity Services for Government Departments*, U.K. National Audit Office, 1 December 1989.
- Draft Guidelines for Victorian Government Information Activities*, Department of Property and Services, June 1990.
- Guidelines for Australian Government Information Activities: Principles and Procedures*, Ministerial Committee on Government Information and Advertising, May 199.
- Draft Queensland Government Advertising Guide*, January 1992.

**APPENDIX E - FOI STATISTICS (SUPPLIED BY THE FOI UNIT)
19 NOVEMBER 1992 - 25 FEBRUARY 1994**

Name of Agency	Personal Applications	Non-personal Applications	Applications Withdrawn or Transferred	Applications Granted in Full	Applications Refused in Full (due to exemption)	Applications Granted in Part	No. of Applications for Int. Review - Access Decisions	Internal Reviews Decided - Access	External Reviews Received
Administrative Services	23	33	8	21	4	18	9	8	7
DBIRD	3	8	1	6	0	2	1	1	0
Consumer Affairs	27	59	10	19	1	34	16	16	6
Creative Services	402	31	28	89	33	223	61	47	18
DEVELTR (inc WC Board)	2877	104	105	242	33	189	78	71	31
Education	381	118	48	287	10	189	61	47	18
Environment & Heritage	5	90	12	30	1	14	0	0	0
DFSAH	569	42	48	198	5	204	20	20	10
Health	1728	392	289	1241	44	277	84	83	48
Home, Local Govt & Plan	90	82	11	87	0	74	4	4	3
JAB	104	96	83	19	7	23	17	12	5
Public Trust Office	8	14	0	12	2	6	1	0	0
Lang AM (ODA)	105	3	8	46	1	61	14	14	3
CJC	72	32	3	17	8	56	12	11	5
Lands	22	133	12	78	2	47	26	26	10
Minerals & Energy	55	99	23	74	8	27	1	2	2
Police	476	852	290	214	66	300	88	86	26
Emergency Services	31	28	2	21	3	12	3	3	2
Prison, Econ & Trade Dev	24	27	14	22	0	13	9	8	6
Office of Cabinet	0	11	1	0	3	3	1	1	0
Auditor General	0	1	0	0	1	0	0	0	0
Primary Industries	53	176	50	87	12	69	32	32	15
Tour, Sport & Racing	8	66	11	18	4	26	11	11	3
Transport	53	390	94	181	2	100	31	31	13
Old Rail	123	33	8	66	0	67	2	2	0
Treasury	9	41	3	4	1	28	19	16	6
PMGC	8	2	0	8	0	2	2	2	0
Off Parliamentary Comm	37	7	4	28	0	7	1	1	1
Govt Super Office	132	1	1	103	0	27	2	2	1
TOTAL	7,528	2,688	1,137	6,864	239	1,888	529	506	223

APPENDIX F - AJA CODE



THE CODE OF ETHICS

All members of the Australian Journalists Association are pledged to stand by their fellow members in observing and enforcing the A.J.A. code of Ethics:

"Respect for truth and the public's right to information are over-riding principles for all journalists. In pursuance of these principles journalists commit themselves to ethical and professional standards. All members of the Australian Journalists Association engaged in gathering, transmitting, disseminating and commenting on news and information shall observe the following Code of Ethics in their professional activities. They acknowledge the jurisdiction of their professional colleagues in AJA judiciary committees to adjudicate on issues connected with the Code.

1. They shall report and interpret the news with scrupulous honesty by striving to disclose all essential facts and by not suppressing relevant, available facts or distorting by wrong or improper emphasis;
2. They shall not place unnecessary emphasis on gender, race, sexual preference, religious belief, marital status or physical or mental disability;
3. In all circumstances they shall respect all confidences received in the course of their calling;
4. They shall not allow personal interests to influence them in their professional duties;
5. They shall not allow their professional duties to be influenced by any consideration, gift or advantage offered and, where appropriate, shall disclose any such offer;
6. They shall not allow advertising or commercial considerations to influence them in their professional duties;
7. They shall use fair and honest means to obtain news, films, tapes and documents;
8. They shall identify themselves and their employers before obtaining any interview for publication or broadcast;
9. They shall respect private grief and personal privacy and shall have the right to resist compulsion to intrude on them;
10. They shall do their utmost to correct any published or broadcast information found to be harmfuly inaccurate."

APPENDIX G - HERALD & WEEKLY TIMES CODE

The Herald and Weekly Times Limited
 G.P. No. 10, 1977

THE HERALD AND WEEKLY TIMES LTD

Professional Practice Policy

The professional activities of all editorial staff shall be guided by the principles of openness, fairness and commitment to accuracy and truth.

This policy of professional practice reflects the following basic principles of journalism:

- * The primary purpose of gathering and distributing news and opinion is to serve society by informing citizens and enabling them to make informed judgments on the issues of the time;
- * The freedom of the press to bring an independent scrutiny to bear on the forces that shape society is a freedom exercised on behalf of the public;
- * Journalists are committed to ensure that the public's business is conducted in public, and must be vigilant against anyone who would exploit the press for selfish purposes or seek to restrict the paper's role and responsibilities;
- * Good faith with the reader is the foundation of good journalism.

The public interest is the only test that may occasionally justify divergence from the standards of conduct set out in this policy. The public interest includes:

- * detecting or exposing crime or serious misdemeanor;
- * detecting or exposing seriously anti-social conduct;
- * protecting public health and safety;
- * preventing the public from being misled by some statement or action of an individual or organisation;
- * detecting or exposing hypocrisy, falsehoods or double standards of behavior on the part of public figures or public institutions and in public policy.

The policy applies to all editorial staff, whether management or staff, union or non-union members, permanent and casual staff and contributors.

1.0. Accuracy

- 1.1. Take care not to publish inaccurate, misleading or distorted material and make every endeavor to get all sides of a story and present same fairly.
- 1.2. Always verify facts and quotations and corroborate any critical information.
- 1.3. If a significant inaccuracy, misleading statement or distorted report has been published, correct or clarify it promptly.

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- 1.4. Always report fairly and accurately the outcome of an action for defamation or a judgment by the Australian Press Council, or other self-regulatory or regulatory body, to which the paper has been a party, and material critical of the paper.
- 1.5. Give a fair opportunity for reply to inaccuracies to individuals or organisations when it has been called for reasonably.
- 1.6. In general, direct quotations should not be altered. There is, however, some justification for the deletion of offensive and gratuitous language or minor amendments to grammar that makes the statement confusing or the speaker appear foolish, so long as the alteration does not fundamentally alter the meaning and context of the quotation. If in doubt that any such alteration goes beyond minor adjustment, seek advice from your editorial supervisor/s.
- 1.7. Sub-editors should take care not to allow the sub-editing process to adversely affect the accuracy, context and fairness of a story.
- 2.0. **Comment and fact**
- 2.1. To be impartial does not require our papers to be unquestioning or to refrain from the expression of editorial opinion; however, editorial material should distinguish clearly between comment, verified fact and speculation.
- 2.2. Editorials, analytical articles and commentaries should be subject to the same standards of factual accuracy as news reports.
- 3.0. **Misrepresentation, deceptive and illegal practices**
- 3.1. Do not obtain or seek to obtain information or pictures through misrepresentation or subterfuge.
- 3.2. Do not remove documents or photographs except with the express permission of the owner.
- 3.3. Do not use a false name, either verbally or in writing, when seeking information for publication or gaining entry to any private or public institution in pursuit of information.
- 3.4. Do not use long range recording devices or cameras, or surveillance or bugging devices.
- 3.5. The above clauses may be waived only when the public interest justifies subterfuge. The use of any deception practice/s must be approved by the editor or any other relevant editorial executive/s after thorough discussion.
- 3.6. An editor confronted with a decision to authorise deceptive methods or subterfuge should meet these minimum conditions: the expected news story must be of such vital public interest that its news value clearly outweighs the damage to trust and credibility that might result from the use of deception; the story cannot reasonably be recast to avoid the need to deceive; all other means of getting the story have been exhausted. Those involved in the decision should ask themselves whether the decision to deceive has been discussed as thoroughly and broadly as feasible and whether readers and staff members will tend to agree that the story justified the deception.

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- 3.7. The nature of any deceptive practices and the reasons for their use must be disclosed to readers at the time of publication.
- 3.8. As a general principle, The Herald and Weekly Times does not condone the breaking of any laws by employees acting on behalf of the company and the company does not accept liability for any such action.
- 4.0. Confidentiality
- 4.1. Unless there is a clear and pressing need to maintain confidence, sources of information should be identified.
- 4.2. Do not promise confidentiality or imply protection unless you are convinced that the information is in the public interest and the source is neither malicious nor mischievous.
- 4.3. If you promise confidentiality, you have an obligation to protect your confidential sources of information at all costs.
- 4.4. Make every effort to verify independently any material gained from confidential sources.
- 4.5. Tell your editorial supervisor's whenever you have made a promise of confidentiality.
- 5.0. Harassment
- 5.1. You should not obtain information, documents or pictures through intimidation or harassment
- 5.2. You should not photograph individuals on private property without their consent, unless the editor is convinced there is justifiable public interest.
- 5.3. You should not persist in telephoning, following or questioning individuals after you have been asked to stop.
- 5.4. You should not remain on a person's private property after having been asked to leave.
- 6.0. Discrimination
- 6.1. Avoid prejudicial or pejorative reference to a person's race, color, religion, marital status, sex or sexual orientation or to any physical or mental illness or incapacity.
- 6.2. Avoid publishing details of a person's race, color, religion, marital status, sex, sexual orientation, physical or mental illness or incapacity except when those details are directly relevant to the story.
- 6.3. You should avoid participation in and membership of clubs and associations which have discriminatory membership policies and should make any such membership known to your editorial supervisor's.
- 7.0. General Privacy
- 7.1. You should avoid identifying relatives or friends of people convicted or accused of crime unless the reference to them is necessary for the full, fair and accurate reporting of the crime or subsequent legal proceedings, or is of direct relevance to the story.

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- 7.2. Be aware that using identifying details, such as street names and numbers etc., may serve to enable others to intrude on the privacy of individuals, who have become the subject of news coverage, and their families.
- 8.0. Grief and trauma
- 8.1. All people, including public figures, should be treated with sensitivity and courtesy during times of grief and trauma.
- 8.2. Ordinary citizens caught up in newsworthy events are ignorant of journalistic practice and that ignorance should not be exploited.
- 8.3. When seeking permission to interview or photograph a victim or bereaved person, make every effort to make the initial approach through an intermediary, such as family member, friend, counsellor etc. Make a direct approach to the subject only if no intermediary is available.
- 8.4. If permission is refused, do not persist. (You may, however, leave a contact number or card so the person may reconsider the request at a less stressful time.)
- 8.5. Do not enter non-public areas of any institution charged with caring for, and counselling, victims and their families (such as hospital, welfare institutions, funeral parlours or chapels, churches etc.) without identifying yourself to a responsible official or without the express permission of the affected people, their intermediaries or their medical/welfare/legal advisor or guardian.
- 8.6. A victim or bereaved person has the right to terminate an interview and/or photographic session at any time and should be made aware of this right before the interview/photographic session begins.
- 8.7. If a subject breaks down during an interview, offer to terminate the interview.
- 8.8. Conduct all interviews with the utmost sensitivity to both the distress likely to be caused by the interview itself and the possible impact on the interviewee that publication of information given in times of stress may have.
- 8.9. If you feel at any time that ordinary citizens may not be aware of the import of what they are saying, discuss this with them and give them the opportunity to withdraw any such remarks.
- 8.10. Draw your editorial supervisor's attention to any material or image that may be particularly sensitive or to any circumstance that may have led you to omit material from your copy.
- 8.11. Photographs of victims or grieving people should be published only following due consideration of sensitivity and privacy.
- 8.12. Any restrictions placed on the use of photographs supplied by the immediate family or an intermediary should be honored.
- 8.13. Distressing or gratuitous reference to the state of a victim's body or to body parts should be avoided.
- 8.14. Care should be taken when republishing any material on the anniversary of a trauma or crime not to cause undue distress to victims or their families.
- 9.0. Reporting destructive and self-destructive behavior
- 9.1. When reporting individual suicide cases, do not refer to them as such, except when the public figure or public interest tests apply.
- 9.2. Avoid reporting details of suicide methods.

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- 9.3. Take particular care when reporting youth suicide trends not to imply that suicide is an acceptable means of resolving problems.
- 9.4. Avoid reports of extortion threats, such as bombs, poisoned food etc. except when justified by public safety or the public interest.
- 9.5. Avoid reporting descriptive details of drug manufacture, distribution and usage except when justified by public safety or the public interest.
- 9.6. Take particular care to avoid implying that illegal drug usage or the misuse of legal drugs is an acceptable means of resolving problems.
- 9.7. Avoid reporting descriptive details of the manufacture or usage of firearms, crossbows, booby traps or any other life-threatening device.
- 10.0. Children
- 10.1. You should not normally interview or photograph children under the age of 1 on subjects involving the personal welfare of the child in the absence of and without the consent of a parent or other adult responsible for the child.
- 10.2. Children should not be interviewed about their parents or siblings when the parents or siblings are the subject of any story except in the presence of, and with the consent of, a parent or other adult responsible for the child.
- 10.3. No inducement should be offered to a child to cooperate in an interview.
- 10.4. Children should not be approached or photographed while at school without the permission of the principal or principal's delegated representative.
- 11.0. Payment for Information
- 11.1. As a general principle, payment or offers of payment or any other inducement for stories, pictures or information should be avoided unless publication is demonstrably in the public interest and there is no alternative to payment.
- 11.2. Payment or offers of payment for stories, pictures or information should not be made to witnesses or potential witnesses in current criminal proceedings or to people engaged in crime or to their associates (including family, friends, neighbors and colleagues) except where the material concerned ought to be published in the public interest and where there is no alternative to payment.
- 11.3. When payment for any story, picture or information has been made, the reader should ideally be informed of the fact of payment, but the disclosure is at the discretion of the editor.
- 11.4. Any payment must be authorised by the Editor.
- 12.0. Conflict of interest
- 12.1. Staff have the right to join and participate in any political or community organisation and activity but should be aware that such participation may create a conflict of interest and reflect on the credibility of the paper and the staff member.
- 12.2. If you sign petitions, participate in demonstrations, or serve in decision-making or fund-raising capacities in organisations that do, or potentially can, generate news, you must inform your supervisor/s.

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- 12.3. You should always inform your supervisor/s in advance of any real or potential conflict of interest that may affect your impartiality or be seen to affect your impartiality when covering a story directly or indirectly connected to an individual or organisation with which you, your close friends or family have personal dealings.
- 12.4. You should tell your editorial supervisor/s, in advance, of any paid or unpaid work that you undertake for any individual or organisation that may constitute a real or perceived conflict of interest.
- 12.5. Editorial supervisors have the right to assign a reporter to cover a story in which he or she has a real or potential conflict of interest, but the story must carry an acknowledgement to that effect.
- 12.6. You should not contribute to outside publications/companies, either by name or nom-de-plume, without prior and express approval of the Editor.
- 12.7. You should not participate in interviews or debates for other media outlets without the prior approval of a supervisor or the editor.
- 12.8. Tell you editorial supervisor/s when you are offered, or given, any inducement such as money, products, subsidised or free travel, accommodation, tickets and special discounts.
- 12.9. If a supervisor believes any gift may put the reporter's or the paper's integrity at risk, the gift should be returned with a polite explanatory note.
- 12.10. The Editor, section editors or other supervising staff are the only people authorised to accept offers of free or subsidised travel, accommodation, tickets etc. on behalf of the paper. They have the right to assign staff to cover any resulting story as they see fit, even if the original offer was made directly to an individual journalist.
- 12.11. Acceptance of an offer of trip or accommodation is conditional on the paper being free to assign staff independently, to publish adverse material or not to publish at all; these conditions should be made in writing to the person or individual making the offer.
- 12.12. Any story generated from free travel or other benefit should carry a tag acknowledgement.
- 12.13. Supervising staff have a duty to find out whether any contributor, who has been commissioned or who offers material for publication, has a real or potential pecuniary or general conflict of interest, although this responsibility does not absolve the contributor from declaring any such conflict.
- 12.14. Where there is no other suitably qualified person available to contribute material in which conflict of interest may arise, the material may be commissioned and published but readers should be told of the potential conflict either in the body or at the end of the story.
- 12.15. Failure to advise a real or potential conflict of interest will result in immediate suspension.
- 12.16. Contributors who are not full-time journalists employed by The Herald and Weekly Times should make any potential conflicts of interest known to the Editor. Any association or activity which might have, or be deemed to have, a bearing on their views should be identified with the published material.

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- 13.0. Financial reporting
You should not use financial information you receive in advance of general publication for your own profit nor should you pass on such information to others in advance of publication.
- 13.1. You should not write about shares, securities or companies in whose performance you know that you, your close friends or your immediate family has a significant financial interest without disclosing that interest to the Finance Editor or Editor.
- 13.2. You should not buy or sell, either directly or through nominees or agents, shares or securities about which you have written recently or about which you intend to write in the near future.
- 13.3. You should not buy or sell, either directly or through nominees or agents, shares or securities about which you have written recently or about which you intend to write in the near future.
- 14.0. Advertising
- 14.1. Any editorial material that is generated as a condition of the placement of an advertisement must be labelled as an advertising feature.
- 14.2. Wherever possible stories that are critical of, or adversely affect, an advertiser should not be carried on the same page as that advertiser's advertisement.
- 15.0. Plagiarism
- 15.1. Plagiarism or the unsourced reproduction of other people's work, including the work of public relations and publicity officers, is unacceptable.
- 15.2. All material for publication that is supplied by an external source should be fully acknowledged, either in the body of the story or in a tag statement.
- 15.3. No story or illustration should carry the by-line of staff journalists or contributors unless it is substantially their own work.
- 15.4. Reporters and contributors have a responsibility to identify to their supervisor/s any stories which are ostensibly retyping of publicity material.
- 16.0. Image manipulation
- 16.1. It is the prime responsibility of photographers to produce work which is a true and accurate representation of events.
- 16.2. Reasonable touch-ups to improve picture reproduction quality is acceptable.
- 16.3. Only with the approval of the editor should elements of a photograph be deleted or altered to avoid causing offence.
- 16.4. Under no circumstances may the basic elements of a photograph be manipulated to produce better composition, nor shall the appearance of any element be altered or the image unduly cropped so that the representation is distorted.
- 16.5. Computerised images and photo illustrations that have been altered must carry an appropriate credit line to ensure readers are not misled into believing they are accurate representations.

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- 16.6 All computerised images or photo illustrations sent interstate or overseas must carry an appropriate and clear advisory that the image has been electronically generated or altered.
- 17.0. Interviews
- 17.1. While co-operation in inquiries by police and other authorities is urged, an employee who is asked to give information or an interview to an authority such as police or to give evidence in a matter related to their profession etc. should refer the request to their editor/supervisor.
- 17.2. Staff cannot have their work published-elsewhere without the prior permission of the editor.
- 18.0. Other
- 18.1. No employee or contributor should give any undertaking to anyone, whether a complainant or subject of an article, that commits themselves or the company to anything that is written or published particularly in relation to corrections apologies etc., without reference to an editor/supervisor.



Steve Harris
EDITOR-IN-CHIEF
THE HERALD AND WEEKLY TIMES LTD

15 November, 1993

STATEMENT OF REASONS OF DISAGREEMENT
 Mr A A FitzGerald, Mr R Quinn and Mr M Rowell

1 PRINCIPLES

1.1 We reject the proposal at paragraph 8.1.9 on which the majority of the Committee have determined that the level of staff resources provided for the Opposition parties is a matter for review by the Parliamentary Service Commission.

2 RATIONALE

2.1 The EARC Report repeated a recommendation from an earlier EARC report that the staff establishment of the Opposition parties should be maintained at 20 per cent of that of ministerial offices and reflect parity with the salary profile of ministerial staff (see EARC 1991, para.6.67(a) and 1993, para.5.99(a)). However, the earlier EARC report also recommended that these staff should be employed by the Parliamentary Service Commission (PSC) (EARC 1991, para.6.67(c)). The previous Committee in considering that Report did not comment upon this recommendation considering it more appropriate for the PSC to assess EARC's recommendation:

"In order to avoid unnecessary duplication of the review process, the Committee refers EARC's recommendations ... [at para.6.67(a) and (c)] to the all-party committee which administers the Parliamentary Service Commission and further recommends that the Parliamentary Service Commission considers these matters expeditiously" (PCEAR 1992, para.4.50).

2.2 In the event the PSC did not support this recommendation.

2.3 The majority of the Committee have simply restated an earlier recommendation that is now out of its original context. In fact the provision of staff resources to the Opposition parties is not one of the statutory functions of the Parliamentary Service Commission (see s.7 *Parliamentary Service Act 1988*). This function is still the responsibility of the Premier's Department.

3 RECOMMENDATIONS

3.1 WE RECOMMEND that the staff establishment of the Opposition parties should be maintained at 20 per cent of that of ministerial offices and reflect parity with the salary profile of ministerial staff.

3.2 WE FURTHER RECOMMEND that the staff of the Opposition parties should be employed by the Parliamentary Service Commission.

A.A. FitzGerald R.J. Quinn M. Rowell

Mr A A FitzGerald Mr R Quinn Mr M Rowell

APPENDIX H - RECORD OF ATTENDANCE AT COMMITTEE MEETINGS

Reported in accordance with Standing Order 198 of the Standing Rules and Orders of the Legislative Assembly.

(See the Report of the Parliamentary Committee for Electoral and Administrative Review on *Public Registration of Political Donations, Public Funding of Election Campaigns and Related Issues* for prior attendance record.)

Meeting Dates	Clark	FitzGerald	Power	Quinn	Rowell	Sullivan	Welford
9 November 1993	✓	✓	✓	✓	✓	✓	✓
11 November 1993	✓	✓	✓	✓	✓	✓	x
12 November 1993	✓	✓	✓	✓	✓	✓	✓
17 November 1993	✓	✓	✓	✓	✓	✓	✓
3 December 1993	✓	✓	✓	✓	x	✓	x
8 December 1993	✓	✓	x	x	✓	✓	✓
10 December 1993	✓	✓	✓	✓	✓	✓	x
15 February 1994	✓	✓	✓	✓	✓	✓	✓
17 February 1994	✓	✓	x	✓	✓	✓	✓
22 February 1994	✓	x	✓	x	✓	✓	✓
24 February 1994	✓	✓	x	x	✓	✓	x
18 March 1994	✓	✓	✓	x	x	✓	✓
14 April 1994	✓	✓	✓	✓	✓	✓	✓
26 April 1994	✓	✓	✓	✓	✓	✓	✓
28 April 1994	✓	✓	✓	✓	✓	✓	✓
28 April 1994	✓	✓	✓	✓	✓	✓	✓