

FLEET STREET LAWYERS' SOCIETY

Please reply to:
**Times Newspapers Limited,
Times House,
1 Pennington Street,
London E98 1LG.**

13th December 2006

The Rt. Hon. Baroness Ashton,
Parliamentary Under Secretary of State,
Department for Constitutional Affairs,
Selbourne House,
54-60 Victoria Street,
London, SW1E 6QW.

URGENT BY HAND & FAX

Dear Cathy,

Following the meeting at the Newspaper Society on Monday, I think it is extremely important that you see what the newspapers and broadcasters, which constitute the Fleet Street Lawyers' Society, have to say about the current government proposals on Freedom of Information. The letter, which follows, has been circulated amongst all the companies listed below and they have approved its content. I hope therefore it will be taken into account at the crucial meeting you are having tomorrow with the DCA Information Rights User Group.

We, the Fleet Street Lawyers, are writing to express our very serious concern at the proposals that the DCA has recently published to limit access to information under the Freedom of Information Act.

The initial success of the Freedom of Information Act in promoting greater openness by public authorities has been one of this government's significant achievements. Authorities increasingly recognise that they must respond to the new legislation with greater transparency. However, instead of encouraging, and taking credit for this process the government's current proposals suggest it wishes to reverse it.

Each of the two proposed changes to the FOI Act's fees regulations would, in our view, severely restrict the media's use of the Act. The public would be denied information which they need and which the media, which is traditionally referred to as the "eyes and ears of the public" by the Law Lords, should be in a position to provide them with about public authority decision-making.

The proposal to allow reading, consultation and consideration time to count towards the FOI Act's cost limits would count against those requests which required most careful consideration, particularly those involving the public interest test. Such requests can already be delayed beyond the normal 20 working day period. Under the new proposals many of these requests would be refused altogether on cost grounds. Such refusals would take no account of

the merits of the request, or the public interest in disclosure, biasing the Act against the very public interest principle that inspired it.

We are also concerned that this proposal would encourage obstructive authorities to drag their feet over requests. Authorities, which are reluctant to release information, are likely to engage in prolonged internal debate as they examine the options for resisting disclosure. By allowing this time to count towards the cost limit, the proposals would reward these authorities by allowing them to refuse such requests on grounds of cost. The legislation should not provide incentives, which undermine its own purpose.

The proposal to allow unrelated requests from the same organisation or individual to be aggregated for cost purposes would block a substantial proportion of all media requests. A newspaper or broadcaster would be limited to possibly no more than a single request per quarter to a government department or public authority, so that once that request had been made no further requests to the authority on any subject could be made during a three month period by any other journalist from the same organisation. It is difficult to see this as anything other than a deliberate attempt to protect government from media and FOI scrutiny.

In this context, we are concerned that no formal consultation over these proposals has so far taken place. In light of the Prime Minister's undertaking at the Newspaper Society Annual Lunch on November 27 to "consult very widely" on these measures we assume this omission will now be corrected. Certainly, our Editors and Executives are hoping that a Consultation Paper will now be published so that the DCA can canvass opinions from a wide range of organisations.

Given what I have said above about the fundamental role of a "free, active, professional and enquiring" media in a "modern participatory democracy", we believe that it is extremely important that the media are distinguished from the commercial business organisations, that you referred to at lunch on Monday, which are carrying out FOI searches for pure commercial purposes. For these reasons and the very real concerns we have over the DCA's current proposals, the Fleet Street Lawyers would welcome an opportunity to meet you and DCA officials to discuss the way ahead.

Yours sincerely,

ALASTAIR BRETT
SECRETARY

**Associated Newspapers Limited,
BBC,
Express Newspapers Ltd,
Guardian Newspapers Ltd,
The Financial Times Ltd
ITN,
Independent News and Media Ltd.,
The Newspaper Society,
Macmillan Publishers Ltd**

**Times Newspapers Ltd
News Group Newspapers Ltd
Channel 4 Television Corporation
Trinity Mirror PLC
The Economist
Periodical Publishers Association
Channel Five Broadcasting Ltd
Newsquest Media Group Ltd**