



OFFICE OF THE CHIEF EXECUTIVE OFFICER

*Ref: 485018*

16 June 2011

Mr Shon Fletcher  
Committee Inquiry Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Dear Mr Fletcher

**AUSTRAC Submission: Inquiry into the Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Bill 2011; Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Bill; Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Consequential Amendments) Bill 2011**

I write in relation to submissions made to the Committee's Inquiry into the three AUSTRAC Supervisory Cost Recovery Levy Bills.

The submissions by Coles Group Limited, Coles Liquor, Bunnings Group Limited, Coles Express and Target Australia Pty Ltd relate to requirements for reporting entities regulated by AUSTRAC to collect and report to AUSTRAC additional details within threshold transaction reports (TTRs).

Contrary to statements made in the submissions, these new obligations are not related to measures contained in the three AUSTRAC Supervisory Cost Recovery Levy Bills currently being considered by the Committee.

Rather, changes to TTR requirements arise as a result of Rules made by the AUSTRAC CEO under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. AUSTRAC consulted extensively with reporting entities on these Rules during 2010 and the final Rules were made on 17 December 2010. The Rules are disallowable legislative instruments. These new obligations will commence on 1 October 2011.

For the background information of the Committee, these new requirements will mean that reporting entities, such as cash carriers, will be required to capture basic

identification information about the person conducting a transaction, if that person is not the customer of the reporting entity.

Some cash carrying firms have interpreted this to mean that they have to collect the details of their customers' staff members every time they pick up cash in excess of \$10,000 under the terms of a standard contract. If this were the case, this would have an operational impact on large retailers such as those which have made submissions to the Committee.

AUSTRAC's view is that this obligation should not require the capture of staff details in such circumstances.

In light of concerns raised, AUSTRAC will consult further with the cash carrying industry to make it clear that for cash carriers, it is not necessary for staff details to be collected where cash is collected from a customer's premises under a standing arrangement. AUSTRAC is also considering whether the wording of the Rules needs to be changed to make this position clear. Any proposed change to the Rules will be subject to further stakeholder consultation.

With respect to issues raised in submissions made by CPA Australia, the Law Council of Australia and the Institute of Chartered Accountants in Australia, it should be noted that members of these associations are largely not currently regulated by AUSTRAC under the AML/CTF Act and hence most would not be subject to cost recovery at this time.

The Government is currently considering the implementation process for the second tranche of reforms which would bring lawyers, accountants and other businesses within the ambit of the AML/CTF Act. The implementation process will include further consultation with representatives of affected businesses. Issues relating to cost recovery would be discussed as part of this consultation process.

I trust this information is of assistance to you.

Yours sincerely

John L Schmidt  
**CHIEF EXECUTIVE OFFICER**