

19 April 2024

Mr Patrick Hodder  
Committee Secretary  
Finance and Public Administration References Committee  
The Senate  
Parliament House  
Canberra ACT 2600

via email: [fpa.sen@aph.gov.au](mailto:fpa.sen@aph.gov.au)

Dear Mr Hodder,

I refer to your email dated 12 April 2024 containing a number of written questions on notice asked by Senator David Pocock in relation to the Inquiry into access to Australian Parliament House by lobbyists.

The FCAI responds to the listed questions as follows.

*Please provide the identity of the parliamentarian who sponsors your parliamentary pass*

As stated at the committee hearing, I have held a parliamentary pass for over 10 years and different MPs have been the relevant sponsor over that time. The administrative processes to procure the pass are largely undertaken by FCAI staff on my behalf. This is why I was unable to unequivocally confirm who had sponsored my latest pass. Having contacted the Department of Parliamentary Services, the FCAI can confirm that Mr Dan Tehan MP is the current pass sponsor.

*I've got questions in relation to the document provided under FOI, reference LEX-75780:  
Had you seen the document prior to it being provided at the committee hearing on 8 April 2024?*

As stated at the committee hearing, up until the hearing date on 8 April 2024, the FCAI had not participated in the Inquiry. The FCAI witnesses were not provided any notice of the multi-page document that was tabled by Senator Pocock at the hearing and placed before the FCAI representatives. As such, the FCAI representatives were not in a position to comment immediately on the veracity or contents of the document until they had been able to properly review the material.

The FCAI has previously faced a situation where documents have been fabricated by third parties and circulated publicly, including the unauthorised use of the FCAI logo. The FCAI is therefore conscious of the need to be cautious before commenting on a document.

Given my belief that the relevant document was subject to an ongoing OIAC review as at 8 April 2024 (refer below), I had every reason to believe that the document tabled without notice by Senator Pocock was a different document, an altered document or something else entirely.

The FCAI has now had an opportunity to review the document tabled by Senator Pocock and can advise that a meeting was held at Parliament House on 8 November 2023. The meeting attendees were Andrew Garrett (Chief of Staff to the Minister for Climate Change and Energy), Joseph Solomon (then Chief of Staff to the Minister for Infrastructure, Transport, Regional Development and Local Government), Cameron Byers (adviser to the Minister for Climate Change and Energy), Tony Weber (Chief Executive, FCAI), Matt Hobbs (then Director Policy and Advocacy, FCAI) and Alan Griffin (Consultant, The Civic Partnership).

The document in question was a hard copy of draft talking notes prepared by third party government relations consultant, The Civic Partnership.



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*Is it your practice, or the practice of the FCAI to give briefing documents to ministers or ministerial officers without your know?[sic]*

No

*Did the FCAI object to the release of that document by the Information Commissioner?*

The FCAI requested that access to the documents be denied on a number of bases including that the material was provided as full and frank advice to government relating to complex policy issues and that the restriction of such advice in the future could hamper the deliberation of government and would not be in public interest.

*Were you aware that the FCAI objected to the release of that document?*

I can now confirm that the document was subject to an FOI request as follows:

- 2 February 2024: FCAI receives the FOI request LEX 75780 sent from the FOI Contact Officer on behalf of the Office of the Minister for Climate Change and Energy;
- 9 February 2024: FCAI responds to the request seeking to have access to the documents denied on a number of bases (refer above);
- 27 February 2024: FCAI receives a notice of grant of access decision from the FOI Contact Officer on behalf of the Office of the Minister for Climate Change and Energy;
- 14 March 2024: Ms O'Hara seeks clarification regarding the process to have the decision reviewed from the FOI Contact Officer;
- 14 March 2024: FOI Contact Officer responds to the enquiry from Ms O'Hara;
- 22 March 2024: Ms O'Hara seeks further clarification from the FOI Contact Officer regarding the sections of the document that have been determined should not be released;
- 22 March 2024: the FOI Contact Officer responds to the second enquiry from Ms O'Hara;
- 22 March 2024: Ms O'Hara lodges an IC review application with the Office of the Australian Information Commissioner (OAIC);
- 22 March 2024: Ms O'Hara receives a receipt of the IC review application;
- 11 April 2024: the OAIC contacts Ms O'Hara to advise of a database error which meant the OAIC did not action the IC review application.

As can be seen above the FCAI did object to the release of the document, and as an internal review of access decisions by a Minister is not available, the FCAI did lodge an IC review application with the Office of the Australian Information Commissioner.

I understand that when an affected third party makes an IC review application in relation to an access grant decision, the Agency or Minister is not able to release the documents to the FOI applicant until the IC review process has been completed.

Notwithstanding the lodgement of the IC review application, the FCAI understands that on or about 3 April 2024, the documents subject to the IC review were released by the Minister for Climate Change and Energy to the applicant. We have subsequently been informed by the OAIC of the database error issue.

*Did you provide the document to anyone, including staff of a ministerial officer, a minister, or any other government official? If so, please provide details of when and to whom*

I am informed that other than the meeting outlined above, the only other discussion with a government official was with Sam Trobe, an Adviser in the Prime Minister's office. In order to facilitate an open and informed discussion in line with the meeting on 8 November 2023, the notes were emailed to Mr Trobe and then spoken to in the course of a teams meeting.

*Why was the document provided in hardcopy, without any reference to being from the FCAI? Please confirm that it was in an attempt to avoid the document being produced under FOI?*

As noted above, the hard copy document was drafted as speaking notes prepared to inform a discussion at a meeting. Given the notes were intended to be used only on an informal aide memoire basis, they were not placed on FCAI letterhead. This would be the usual practice of FCAI in these circumstances.

At the conclusion of the meeting, one of the ministerial staff members asked if he could retain a copy of the notes. The hardcopy notes were provided to the staff member at the meeting.

The points made in the document regarding the difficulties with implementing a fuel efficiency standard that is too harsh and too fast have been made publicly by myself and other FCAI and industry representatives on numerous occasions.

The FCAI rejects Senator Pocock's assumption that the notes were not placed on FCAI letterhead in an attempt to avoid the document being produced under FOI. As outlined above, the informal notes were not taken to the meeting with the intention of being tabled. As I stated at the hearing on 8 April 2024, the FCAI clearly understands that a lack of letterhead would not prevent a document from being subject to an FOI request.

*The document says that OEMs are "almost schizophrenic". What is meant by this?*

In relation to the comment 'almost schizophrenic', the FCAI refers to the comments in the document itself, which references inconsistencies in positions held by companies in respect of the broader policy question, their competitive positioning and their ability to deliver new vehicles against certain timelines. I refer to the Cambridge Dictionary definition of the term as 'having qualities or attitudes that are different from each other and that do not work well together'.

*Was the document cleared by FCAI members? Did members know about the content of the document? If so, which members?*

It is not (and will not be in the future) the usual practice of the FCAI to distribute or 'clear' meeting notes with its 60+ member brands.

*Is the FCAI a member of the Labor business forum?*

Yes, as stated at the hearing on 8 April 2024.

*What are the fees for membership of that forum?*

\$35,000.

*What about any Liberal or National Party business forums or related fundraising groups?*

As stated at the hearing, the FCAI is a member of each of the Liberal, National Party and Labor business forums.

The FCAI is also a member of and/or subscriber to ITS Australia, CEDA, OICA and IMMA.

In closing, the FCAI notes the comment made by Senator Pocock in the hearing regarding '(the FCAI's) strategy and playbook to weaken proposed vehicle emissions standards'. The FCAI rejects this assertion and refers the Committee to the FCAI's most recent submission of Fuel efficiency standards which can be accessed here: <https://www.fcai.com.au/fcai-submission-in-response-to-cleaner-cheaper-to-run-cars-the-australian-new-vehicle-efficiency-standard/>

Yours sincerely,

Tony Weber  
Chief Executive