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21 December 2011

Mr Roger Clarke
Chair for the Board of the Australian Privacy Foundation
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Dear Mr Clarke

Police Action in Relation to Fairfax

Thank you for your emailed letter of 19 December 2011, enquiring about the Victorian Electoral Commission's (VEC's) role in instigating Police action in relation to Fairfax newspaper offices.

It is important to know the legislation governing Victorian enrolment information. Under section 33 of the *Electoral Act 2002* (the Act), the VEC is required to provide enrolment information (except for that relating to silent electors) to registered political parties. Section 36 of the Act provides that registered political parties may only use this enrolment information for a permitted purpose; the permitted purposes are any purpose in connection with an election, and monitoring the accuracy of information contained on an electoral roll or on the register of electors. It is an offence to use this enrolment information for a purpose other than a permitted purpose, or (under section 37) to disclose this enrolment information for other than a permitted purpose. The penalty for these offences is 600 penalty units (currently \$73,284) in the case of a natural person, and 3,000 penalty units (currently \$366,420) in the case of a body corporate or registered political party. The purpose of these provisions is to protect electors' privacy.

On 23 November 2010, an article in *The Age* stated that the newspaper had gained access to the Australian Labor Party's (ALP's) database, and gave examples of how the database included personal information on many Victorians. The ALP's database appears to include the enrolment information provided by the VEC. Therefore, this enrolment information may have been disclosed for other than a permitted purpose. The VEC is responsible for following up possible offences against the *Electoral Act 2002*. As there appeared to have been a possible breach of section 37 of the Act, the VEC requested the assistance of Victoria Police to investigate the matter.

The storage of other personal information on party databases is a subject for public debate, but the VEC has no jurisdiction in this area.

I hope that this clarifies the situation for you.

Yours sincerely,

Liz Williams
Acting Electoral Commissioner