



Our ref: C11096

Dr Roger Clarke  
Chair, Board of the Australian Privacy Foundation  
[chair@privacy.org.au](mailto:chair@privacy.org.au)

Dear Dr Clarke

I refer to your letter, dated 3 November 2010, concerning jurisdictional arrangements regarding road tolling.

In response to your questions, I can advise firstly that the former Privacy Commissioner raised this issue at the meetings held by the Asia Pacific Privacy Authorities (APPA), and the Privacy Authorities of Australia (PAA).

At the APPA forum of November 2008, road tolling was considered in the context of the broader issue of "location tracking". Further, at the PAA meetings of September 2008 and March 2009 the matter of toll road operators was specifically listed for discussion in relation to jurisdictional issues.

In regard to your question relating to the regulation of toll road operators, as previously advised, toll road operators will normally be covered by the *Privacy Act 1988 (Cth)* (the Act). However, in circumstances where a toll road operator is operating under a contract with a State agency, those operations will be exempt under section 7B (5) of the Act. This aspect was set out in more detail in our letter of June 2008.

During the discussions on this point at the PAA meetings, it was accepted that toll road operators will be covered by the Commonwealth legislation, but where those operators were contracted to provide a service to a State agency, the toll road operator would be obliged to meet the requirements of that State's legislation and would be exempt, as outlined above, from the Act.

In respect of your final question, in terms of our Office's jurisdiction, as with all organisations covered by the Act, toll road operators are required to ensure that they comply with the National Privacy Principles (NPPs).

In this context, should the Office receive a complaint from an individual, one aspect we would routinely check is whether an organisation has a privacy policy that is accessible and contains all the information required by NPP5.

Our Office also publishes a significant amount of guidance material on its website to assist organisations in meeting these obligations.

Yours sincerely

A handwritten signature in black ink, reading "Timothy Pilgrim". The signature is written in a cursive style with a long horizontal stroke at the top.

Timothy Pilgrim  
Australian Privacy Commissioner

18 February 2011

The following National and State privacy regulators have been provided with a copy of this correspondence:

Ms Julie Kinross, Queensland Information Commissioner  
Ms Linda Matthews, Queensland Privacy Commissioner  
Ms Helen Versey, Victorian Privacy Commissioner  
Mr John McAteer, Acting Privacy Commissioner NSW  
Mr Simon Allston, Tasmanian Ombudsman  
Mr Terry Ryan, Presiding Member, Privacy Committee South Australia  
Ms Brenda Monaghan, Information Commissioner Northern Territory