



**NSW Police Force**  
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Mr John Miller  
Inquiry Manager  
Legal Affairs Committee  
Legislative Assembly  
Parliament of New South Wales  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Miller

I refer to your letter dated 23 June 2014 concerning the transcript of my evidence to the Inquiry into Debt Recovery in NSW and the Legal Affairs Committee's request that I answer additional questions.

Thank you for making the corrections that I requested to the transcript, and for granting an extension of the due date for my responses to the Committee's Supplementary Questions.

I provide the following responses to the Committee's questions (using your numbering), with consideration to Premier & Cabinet's *Guidelines for Appearing Before Parliamentary Committees*:

1. The *Commercial Agents and Private Inquiry Agents Act 2004* ("the CAPI Act") commenced on 1 May 2006.

My experience with the debt recovery industry does not pre-date the Act's commencement, however that experience suggests to me that the vast majority of debt collection activities occur via telephone, email and correspondence, rather than through face-to-face interactions between commercial agents and debtors. Collection activities are therefore able to be conducted from any location – facilitating industry consolidation - and NSW debtors may, accordingly, be contacted by commercial agents based in other Australian or overseas jurisdictions.

I am also of the view that it is becoming more prevalent for collection agencies to purchase debt and collect it on their own behalf, rather than on behalf of a client.

- a. The above issues were identified in the NSW Police Force's submission to a review of the CAPI Act in 2008.

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2. The advantage of licensing commercial agents is, as with other occupational licensing schemes, the ability to exclude individuals from the industry that do not meet the prescribed probity and competence standards. The examination of other regulatory options is a matter for the Ministry for Police and Emergency Services in undertaking its continuing review of the CAPI Act.
3. The NSW Police Force's experience in regulating the security industry, in which there has been considerable exploitation of mutual recognition provisions in recent years, suggests that there is already significant inconsistency in training standards between jurisdictions. As I have indicated in my response to question 1, the way in which the debt collection industry operates means that NSW debtors may be contacted by commercial agents in other jurisdictions for whom NSW training standards cannot practicably be enforced.

As with a positive licensing scheme, negative licensing allows for the exclusion of persons who have demonstrated their unsuitability to operate within a regulated industry. A person's unsuitability may be determined by their demonstrated incompetence.

4. The design of a negative licensing scheme, were one to be introduced for the NSW commercial agents industry, would be a matter for the Government to determine.
5. It is true that a number of licensed commercial agents (approximately 28%) are also licensed as private inquiry agents, however the reasons for that are unclear and may simply be due to the fact that the industries are currently regulated via a shared licensing scheme, allowing an application to be made for both classes of licence for a single fee.

The authority of a debt collection licence encompasses activities related to "finding the third person [i.e. the debtor]", so a private inquiry agents licence is not separately required by a debt collector unless they are also involved in "investigating a third person's business or personal affairs" or "the surveillance of a third person". Given the nature of the industry (see response to question 1), this seems unlikely.

I hope these responses will assist the Committee in its deliberations. Please contact me on [REDACTED] if you require further information.

Yours sincerely

[REDACTED]  
Cameron Smith  
Director