



**Australian
Privacy
Foundation**

<http://www.privacy.org.au>

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<http://www.privacy.org.au/About/Contacts.html>

15 December 2011

Mr W. Gunn
The General Manager
Airport Motorway Limited
P.O. Box 556
Kings Cross NSW 1340
info@easterndistributor.com

Dear Mr Gunn

Re: Anonymous Payments for Use of the Eastern Distributor

The Australian Privacy Foundation (APF) is the country's leading privacy advocacy organisation. A brief backgrounder is attached.

We understand that cash booths will shortly be withdrawn from the Eastern Distributor toll-road.

It is critical that road users have convenient anonymous payment mechanisms available to them, so that they can drive on the roads without generating data-trails of their movements.

I attach a copy of the APF's Policy Statement on the matter.

Would you please advise:

1. Which corporate entity or entities is/are involved in the operation of this toll-road
2. What anonymous payment mechanisms are available now, and what anonymous payments mechanisms will be available after the cash booths are closed
3. What privacy legislation, codes and regulators are the relevant entities subject to

Thank you for your consideration.

Yours sincerely

Roger Clarke
Chair, for the Board of the Australian Privacy Foundation
(02) 6288 1472 Chair@privacy.org.au

Australian Privacy Foundation

Background Information

The Australian Privacy Foundation (APF) is the primary national association dedicated to protecting the privacy rights of Australians. The Foundation aims to focus public attention on emerging issues that pose a threat to the freedom and privacy of Australians. The Foundation has led the fight to defend the right of individuals to control their personal information and to be free of excessive intrusions.

The APF's primary activity is analysis of the privacy impact of systems and proposals for new systems. It makes frequent submissions to parliamentary committees and government agencies. It publishes information on privacy laws and privacy issues. It provides continual background briefings to the media on privacy-related matters.

Where possible, the APF cooperates with and supports privacy oversight agencies, but it is entirely independent of the agencies that administer privacy legislation, and regrettably often finds it necessary to be critical of their performance.

When necessary, the APF conducts campaigns for or against specific proposals. It works with civil liberties councils, consumer organisations, professional associations and other community groups as appropriate to the circumstances. The Privacy Foundation is also an active participant in Privacy International, the world-wide privacy protection network.

The APF is open to membership by individuals and organisations who support the APF's Objects. Funding that is provided by members and donors is used to run the Foundation and to support its activities including research, campaigns and awards events.

The APF does not claim any right to formally represent the public as a whole, nor to formally represent any particular population segment, and it accordingly makes no public declarations about its membership-base. The APF's contributions to policy are based on the expertise of the members of its Board, SubCommittees and Reference Groups, and its impact reflects the quality of the evidence, analysis and arguments that its contributions contain.

The APF's Board, SubCommittees and Reference Groups comprise professionals who bring to their work deep experience in privacy, information technology and the law.

The Board is supported by a Patron (until this month, Sir Zelman Cowen), and an Advisory Panel of eminent citizens, including former judges, former Ministers of the Crown, and a former Prime Minister.

The following pages provide access to information about the APF:

- Policies <http://www.privacy.org.au/Papers/>
- Resources <http://www.privacy.org.au/Resources/>
- Media <http://www.privacy.org.au/Media/>
- Current Board Members <http://www.privacy.org.au/About/Contacts.html>
- Patron and Advisory Panel <http://www.privacy.org.au/About/AdvisoryPanel.html>

The following pages provide outlines of several campaigns the APF has conducted:

- The Australia Card (1985-87) <http://www.privacy.org.au/About/Formation.html>
- Credit Reporting (1988-90) <http://www.privacy.org.au/Campaigns/CreditRpting/>
- The Access Card (2006-07) http://www.privacy.org.au/Campaigns/ID_cards/HSAC.html
- The Media (2007-) <http://www.privacy.org.au/Campaigns/Media/>



Background

Many crucial elements of public infrastructure such as roads, bridges and tunnels are subject to 'pay per use' arrangements, or are being converted to them. This applies to both publicly-funded and privately-funded infrastructure, and to infrastructure developed under 'public-private partnerships'.

Most schemes have supported cash payment, which has sustained the longstanding position of an effective right to use public infrastructure anonymously.

Most schemes also support electronic payment, of various kinds. These have been developed partly to reduce costs and improve service, and partly to transfer costs from the operators to the users.

As far as the APF can tell, none of the electronic payment schemes in Australia has a practicable anonymous option, and some have not even put up a pretence. They are all inherently identified, in that they are tied to credit-cards or debit-cards. This was not necessary. It was a design decision by the operators to do it that way.

Some infrastructure does not support cash booths, and some infrastructure that has supported cash payment in the past is being converted to electronic payment only.

As a result, access to some critical infrastructure without disclosing identity is being denied, and more operators are moving to preclude anonymous travel.

Summary of the APF's Policy Position

1. The ability of individuals to travel without disclosing their identity to the infrastructure operator is essential to democratic freedoms
2. A convenient anonymous payment option is an essential requirement of the operation of toll-roads
3. All toll-road operators that currently do not provide convenient anonymous payment options must implement them
4. All toll-road operators that plan to withdraw cash booths must provide convenient anonymous payment options before the cash-booths are withdrawn
5. All organisations that develop new toll-roads must provide convenient anonymous payment options from the time that the toll-road commences operation

Detailed Statement

It is a vital civil freedom to be able to use transport infrastructure without declaring one's identity, and without having a trail of location and tracking data created about one's movements. This is reflected in ICCPR Article 12 (1), which provides for the right to liberty of movement.

All sets of privacy principles require organisations to collect personal information only where it is necessary to the performance of a business function, and to collect the minimum amount of personal information. Some sets of privacy principles also expressly require that transactions be able to be

conducted anonymously unless there is a sufficient justification for the individual's identity to be required.

There is no need for toll-road operators to collect the identifiers of individuals who use their toll-roads, or who permit vehicles registered in their name to be driven by other people on toll-roads.

It is therefore essential that toll-road operators provide means that are convenient to individuals whereby they can use toll-roads without disclosing their identity or having data about them unjustifiably collected.

It is both practicable and sufficiently economic for toll-road operators to enable anonymous payment. At least the following options are available:

1. Accept anonymous payment through the mail, in cash, by money order or by similar means, recorded against a vehicle-identifier and date-and-time information
2. Accept anonymous payment at all service-points, including Australia Post, in cash, by money order or by similar means, recorded against a vehicle-identifier and date-and-time information
3. Enable the use of a tag that does not require any form of identification
4. Enable the use of a tag that may itself be identified, but that interacts with the operator's payment systems in such a manner that the identifier is not disclosed to the operator

Under options 1 and 2, a sufficiently long 'period of grace' must be allowed, after the travel, and before data about the registered owner is extracted and a toll notice generated. This is necessary both to minimise the exposure of personal data, and to avoid the unnecessary effort and the unjustified imposition of expenses on individuals who wish to exercise their privacy rights.

In any case, the collection of funds is a legitimate cost of doing business, and so are the costs of sustaining an anonymous payment mechanism.

APF thanks its site-sponsor:



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