



CENTRE FOR CIVIL SOCIETY

K-36 Hauz Khas Enclave, New Delhi 110 016
Voice: 2653 7456/ 2652 1882 Fax: 2651 2347
Email: ccs@ccsindia.org Website: www.ccsindia.org

BOARD OF SCHOLARS

Isher Judge Ahluwalia
Swaminathan Aiyar
Jagdish Bhagwati
Surjit S Bhalla
Mahesh P Bhatt
Bibek Debroy
Meghnad Desai
Deepak Lal
Shreekant Gupta
Kirit Parikh
IG Patel
Urjit Patel
Subroto Roy
Ajay Shah
Nirvikar Singh
Suresh Tendulkar
Kiran Wadhwa
Leland B Yeager

CHAIRMAN
Kanwal S Rekhi

PRESIDENT
Parth J Shah

1 March 2005

Dear Shri Natchiappan:

Thank you so much taking the time. As mentioned in our earlier email, we are sending suggestions pertaining to specific clauses. We have mentioned similar clauses in the RTI bills of other countries.

We proposed 5 exact reforms in the RTI Bill 2004 in continuation of our earlier submission.

1. Definition of Public Authority

The public authority should include independent regulatory and supervisory bodies created by the government. To remove any ambiguity about whether these bodies are included, part of Section 1, sub section (c), should be repeated in sub section (g), sub-sub section (iiia): public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled by the Central Government or a Union territory administration.

2. Scope of Information

The public access should also be to the reports, advisories, or documents produced by consultants hired by the public authority directly or indirectly through multilateral or bilateral governmental agencies or financed directly or indirectly through international agencies or NGOs, or charitable associations. Please include the above line in Section 1, sub section (d).

3. Meaning of the Right to Information

Section 1, sub section (j) refers only to the information available on request from the public authority; it should include reference to the information that is made available *suo moto* (under the Section 4). The sub section (j) should then read as follows: 'right to information' means the right to information available *suo moto* as well as the information accessible under this Act...."

4. The Scope of suo moto Information

The Section 4 (1), sub section (b) should include, at appropriate places, the following extra items to the existing (xvii) items:

- Public contracts for works, supplies and services
- Utilities contracts (water, energy, sanitation and sewerage, transport and telecommunications sectors)
- Reconstruction and rehabilitation, and disaster and developmental projects and contracts thereof
- Official travel and hospitality details and expenses of the public authority.
- Copies of all records, regardless of form or format, which have been released to any person under the RTI Act and which, because of the nature of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records

5. Emphasis on the Duty to Publish as much as the Duty to Furnish

A genuine right to information should have two components: government's duty publish (*suo moto*) and government's duty to furnish (on request). The European Union has made a list of

items that must be published automatically and regularly under what they call series L for legislation, series C for information and notices and the series S for public procurement. The US Act requires that once information is released to any person under the RTI Act, and if more people are likely to file similar requests, they the authority should make that information available automatically.

As argued in detail in our previous submission, we believe very strongly that unless the government commits to making most of the necessary information available to citizens without their asking, the right to information would remain more of a paper right. We suggest that the following should be included in the preamble to the proposed Bill: the citizen has a basic right to all government information except what is restricted by the Official Secrets Act, 1923, and it is government's primary duty to put all information in public domain *suo moto*.

With heartily thank your for your consistent support and encouragement to work on improving the RTI Bill 2004. Please do contact us if we could be any further help.

In liberty,



Parth J. Shah

9811145667
parth@ccsindia.org

Attachments: Examples of and the nature of duty to publish in other countries

Examples of and the nature of duty to publish in other countries:

The *Official Journal of the European Union (OJ)* is the only periodical published every working day in all 20 official languages of the European Union (EU). It consists of two related series L for legislation and C for information and notices and a supplement S for public procurement. The L series contains EU legislation, including: regulations; directives; decisions; recommendations; opinions.

The C series contains EU information and notices, including: summaries of judgments of the Court of Justice and the Court of First Instance; minutes of parliamentary meetings; reports of the Court of Auditors; parliamentary written questions and answers from the Council or Commission; statements from the Economic and Social Committee and the Committee of the Regions; competition notices for recruitment by the EU institutions (if you are interested only in these notices, there is a special subscription – see price list); calls for expressions of interest for EU programmes and projects; other documents published pursuant to Community legislation; public contracts for food aid; the table of contents of the OJ CE series.

The S series is about invitations to tender in the following sectors: public contracts for works, supplies and services from all EU Member States; utilities contracts (water, energy, transport and telecommunications sectors); public contracts from EU institutions; European Development Fund contracts (ACP countries); European Central Bank and European Bank for Reconstruction and Development financed projects; European Economic Area contracts; notices concerning European economic interest groups (EEIGs); public contracts for air services.

The UK Act: But we are also aware of instances where people have had to fight long and hard for information which should have been readily provided. We believe that Freedom of Information legislation will only achieve its purpose if public authorities operate on a basis of a presumption of openness. **Information should be provided as a matter of course unless there are good reasons for not doing so.**

A Scottish public authority must-

(a) adopt and maintain a scheme (in this Act referred to as a "publication scheme") which relates to the publication of information by the authority and is approved by the Commissioner; (b) publish information in accordance with that scheme; and (c) from time to time review that scheme. (2) A publication scheme must specify- (a) classes of information which the authority publishes or intends to publish; (b) the manner in which information of each class is, or is intended to be, published; and (c) whether the published information is, or is intended to be, available to the public free of charge or on payment.

Publishing or making available such information on a routine basis should help to reduce the number of requests for information. It should also reduce the need for departments to respond to individual requests for information as applicants may simply be referred to published source documents in accordance with the Code.