

Letters

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Agency coercive powers lead to abuse

You are called by the Australian Securities and Investment Commission as a minor witness in an insider trading matter and are compulsorily questioned. The commission confirms you are not a suspect, but unknown to you refers a transcript of what you said to the Australian Taxation Office for an investigation of your tax affairs. This would be the result of allowing one government agency to provide other agencies details of compulsory examinations ("Hogan's financial adviser challenges ATO grilling", October 14).

The matter raises several points:

- The power to compulsorily examine a person under the pain of going to jail for refusing to answer is an extraordinary oppressive power. The person cannot refuse to answer on the grounds that the answer might

incriminate him, and commits a crime if he refuses to answer, or gives an inaccurate or misleading answer.

- An examination by a government agency is an uneven contest, heavily weighted in favour of the agency. The examination is not conducted under the supervision of an independent umpire, but by the agency itself. A lawyer for the person may be present but he has a limited right to say anything. The agency will often have spent months, if not years, in investigating and preparing for the examination. From its vast resources and information collected from its other coercive powers it may have a substantial amount of material. The person being interrogated on the other hand will usually have limited resources and only a general knowledge of the subject matter of the inquiry (there

being no requirement to notify in advance of the questions to be asked or the documents to be examined on). The examination may last hours, or even days.

- It is wrong to assume that the decision to compulsorily examine a person is made in the collective wisdom of the agency with benevolent regard to the community's interests (rather than in the interests of the agency or the persons employed by it). The power is given to one or more agency employees who, like you and I, get up in the morning, have our own prejudices, act fairly and unfairly, make mistakes and have a career path.

This institute considers that a government agency should not refer to another agency information obtained in such examinations,

except in exceptional circumstances and with strict due process safeguards, otherwise the existing flawed nature of compulsory examinations will be compounded.

In addition, an agency needs some co-operation from the person and some respect by the person with the due process of the examination. This is likely to evaporate once the person knows that the inquiry is not limited in scope and that any answer may trigger one or more investigations into him by other agencies.

History shows that the greater the conferral of coercive powers, the greater the opportunity for abuse, and the greater the loss of respect for the law and those who administer it.

Robin Speed

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Water priorities top NBN plan

Independent MP Bob Katter sensibly has suggested that the need to reduce the water entitlements of Murray-Darling irrigators might be avoided by diverting water across the Great Divide from the east-flowing rivers of NSW and Queensland to the upper reaches of the Darling.

As much, if not more water could be similarly tapped from the water flowing out to sea from western Tasmania and piped under Bass Strait to Victoria (where an added bonus would be to mothball John Brumby's desal plant).

In both cases, the capital cost would be substantial — though so would be the cost to the national economy, and to affected regional communities, of not maintaining the water needs of those irrigators. But how would the cost of that investment in water diversion, and benefits to regional and national Australia, compare with those of the national broadband network?

Much of the NBN's projected \$43 billion cost arises from the government's wish to provide regions with the broadband speed and capacity that is already available to those metropolitan residents and businesses who are prepared to pay for it.

Given the choice, I'd bet most Australians, regional and city-based, would regard drought proofing as more important than slightly slower broadband availability. Now is surely the time to...

QR National: why don't institutions just say no?

Reading between the lines, few institutions really think that QR National is worth anything like \$2.50, the low end of the indicative price band.

Instead of saying "no" to the float at the rich price being asked, they tweak their models to come up

