



Any reply or subsequent reference to this communication should be addressed to the Contractor-General and the following reference quoted:-

No. :

TELEPHONE No.:876-929-8560/6466

FAX No. : 876-929-2476

E-mail: gchristie@ocg.gov.jm

**OFFICE OF THE CONTRACTOR-GENERAL**

**PIOJ Building**

**16 Oxford Road**

**P.O. BOX 540**

**KINGSTON 5**

**JAMAICA, W.I**

June 19, 2010

Mr. Garfield Grandison  
Editor-in-Chief  
The Gleaner Company Limited  
7 North Street  
Kingston

Dear Sir:

Re: Gleaner Editorial entitled – “The Controversial CAP Shares”

I write with reference to your Editorial of even date which is entitled “The Controversial CAP Shares”. You have raised, among other things, a number of questions regarding a Contractor General’s jurisdiction over State asset divestment issues.

The Contractor General Act provides that a ‘Government contract’ “*includes any licence, permit or other concession or authority issued by a public body, or agreement entered into by a public body for the carrying out of building or other works or for the supply of any goods or services*”. (My emphasis).

By the use of the term “*includes*” in the Statute, it is conclusively evident that a ‘Government contract’ is not, as you have postulated, confined to licences, permits and concessions, and building, goods and services contracts. There is also absolutely nothing in the Statute which implicitly or expressly excludes Government asset divestment agreements from the ambit of the definition of a ‘Government contract.’

It is for the foregoing reasons that the OCG has always been fortified in its view that its practiced jurisdiction, over government asset divestment transactions, over the better part of the past 25 years, is one which is properly and legally founded.

The OCG has never retreated from this view and, as you have correctly stated, the view is one which has been substantiated and supported by a formal legal opinion, dated January 25, 2000, which was written on the matter by eminent counsel, Dr. the Hon. Lloyd Barnett, OJ.

Regrettably, however, having constructed your own statutory definition of a ‘Government contract’ by deliberately excluding the word “*includes*” from your contrived definition of the term, you have then attempted to give credence to your remark that you “*find it puzzling that shares could ever be classified as goods*”.



On the basis of this obviously flawed and misinformed premise, you have proceeded to call into question the integrity of the discharge of my functions by your injunction that *“in order not to devalue the important work he has done and is doing, the contractor general must administer the law with certainty and consistency”*.

In adding insult to injury, you then go further to falsely state that *“Strangely enough, neither the Government nor the contractor general has said anything to enlighten the public on this controversial matter”*, obviously forgetting that when the very issue was first raised by you in your Friday, June 4, 2010 edition of the Financial Gleaner, within a matter of mere hours a Media Release was issued by the OCG to clarify its positions on the matter. (See OCG Media Release, dated June 4, 2010, entitled ‘Contractor General Invites Attorney General to Reconsider Positions on OCG’s Jurisdiction in Light of Legal Opinion of Queen’s Counsel’. ([http://www.ocg.gov.jm/website\\_files/media\\_releases\\_issued/media141.pdf](http://www.ocg.gov.jm/website_files/media_releases_issued/media141.pdf)).

Interestingly, and despite the false charge that you have now made, The Gleaner did not see it fit at the time to print anything from the above-referenced OCG Media Release.

I am also obliged to place on the record, the fact that in a further Media Release which was issued by the OCG on Monday, June 7, 2010, the issue was again clarified. Also, an earlier OCG Media Release, dated June 1, 2010, went to great lengths to give details of the OCG’s recent work in respect of Government asset divestment matters. Both of these Media Releases can be examined by you and others at [http://www.ocg.gov.jm/ocg/media\\_releases\\_issued.php](http://www.ocg.gov.jm/ocg/media_releases_issued.php).

With respect to the Manatt, Phelps and Phillips issue, which has also been raised in your Editorial, I have already lucidly articulated the OCG’s positions on the matter in an official OCG Statement which was made public on May 16, 2010. That Statement, as you would no doubt recall, was written in response to your own Editorial of the same date. No further OCG comment on the issue is necessary.

Finally, I have noted your closing comment that *“If it is that his powers are deficient, then he (the Contractor General) needs to persuade Parliament to extend his powers to cover any gaps or grey areas that exist”*.

Ironically, it was only on Thursday last, June 17, 2010, that I had cause to make the following comments in a letter which was written by me to Dr. Wykeham McNeil, the Chairman of the Public Administration and Appropriations Committee (PAAC) of Parliament.

My letter was copied to the Prime Minister, the Leader of the Opposition, the Speaker of the House of Representatives and the President of the Senate.

These were my verbatim comments:

*“The OCG has passed the point of frustration in its making of formal Recommendations to the Parliament and successive Administrations of the Government of Jamaica.*

*Literally scores of considered Recommendations have been made by my office over the past four and one half (4 ½) years in respect of matters which are related to securing heightened levels of good governance, probity, transparency, accountability, competition, value for money and propriety in Government contracting and public procurement in Jamaica. Regrettably, however, to date, very little has resulted from these Recommendations.*



*For the most part, the considered Recommendations of the OCG have been treated with scant regard by both the Legislature and the Executive and it is for this very reason that, in my last two (2) annual Reports to the Parliament of Jamaica, I have come to openly question the relevance of the OCG and its continued existence”.*

Respectfully yours,

Greg Christie (Signed)

---

Greg Christie  
Contractor General