

# **Electronic Business Transactions and Recordkeeping: Serious Concerns – Realistic Responses**

Steve Stuckey and Anne Liddell

**Steve Stuckey** is currently Assistant Director-General, Collection Management at the National Archives of Australia. He has worked for the National Archives for 27 years. He has wide experience in appraisal and disposal of records, and has been involved with the intricacies of electronic records since managing the electronic petroleum exploration data at the National Archives in the early 1980s. From 1992 to 1996 he was a member of the International Council on Archives Electronic Records Committee.

**Anne Liddell** joined the National Archives of Australia from the Barr Smith Library, University of Adelaide in 1998. She has worked in numerous areas of the National Archives including as a reference archivist. She has recently managed the redevelopment of the Commonwealth Recordkeeping pages of the Archives' website and assisted in the launch and promotion of the Archives' new framework for recordkeeping in the Commonwealth. She is currently working as a Project Officer in the Communications and Training section.

*The Australian archives and records profession has developed an enviable international record in relation to the development of both the theory and practice of modern recordkeeping, especially electronic recordkeeping. This article is based on a paper presented at the Records Management Association of Australia ACT Branch seminar on electronic transactions on 21 March 2000, and is reproduced with the kind permission of the RMAA. It looks at the issues facing recordkeeping in an electronic transactions environment, relating this to Federal government operations. It also challenges some of the archives and records professions' views and expectations about how others might see the importance in the detail of electronic recordkeeping, especially in an era of 'light-touch' legislation to enable the development and uptake of e-commerce.<sup>1</sup>*

In a 1998 industry statement, Investing for Growth, Prime Minister John Howard announced that the Commonwealth government would lead the

development of an information economy within Australia. It would do so by, among other initiatives, fostering an appropriate legal, regulatory and policy framework for electronic commerce and by providing all appropriate Commonwealth information and services online by 2001.<sup>2</sup> Many Commonwealth agencies are already participating in electronic commerce initiatives, or rapidly moving towards doing business online to meet the Government's goal and in the process entering into electronic transactions that require the creation, capture and management of records.

For the purposes of recordkeeping, electronic commerce refers to the online exchange of services between Commonwealth agencies, and between Commonwealth agencies and non-Commonwealth clients (including businesses and individual members of the public). These services may include the provision of online transaction facilities and procurement activities.

All Commonwealth agencies are required to make and keep records of their business activities, irrespective of how those activities are transacted. Records arising from the transaction of e-commerce should be managed like any other record of Commonwealth business. That is, such records should be full, accurate, authentic, meaningful and accessible and should be captured and managed in agency recordkeeping systems for as long as they are required. The force of Commonwealth policy and the rapid take-up by agencies of electronic services therefore offers the National Archives the ideal opportunity to promote the benefits of implementing its standards and practices.

The more important laws that apply to most Commonwealth agencies in regard to electronic business transactions and recordkeeping are the *Electronic Transactions Act 1999*, the *Archives Act 1983*, the *Evidence Act 1995*, the *Freedom of Information Act 1982* and the *Privacy Act 1988*. There are also numerous other legislative mechanisms that could apply to electronic transactions. The need by agencies to meet the legislative obligations inherent in these laws also supports the uptake of the National Archives' standards and practices. In general, agencies that implement effective recordkeeping practices can feel confident of meeting most legislative obligations relating to information. But they also need to assess all legislation relevant to their core business functions when planning an electronic recordkeeping system.

## **Recordkeeping – The challenges**

In considering the recordkeeping implications of electronic transactions it is necessary to ask the question: where does recordkeeping, and in particular government recordkeeping, find itself in the last year of the twentieth century? Marginalised? Under siege? Viewed both as a problem too hard to solve and a costly burden easier to avoid than address? It is true to say:

- marginalised, because the *traditional* advocates of recordkeeping – records managers and archivists – while belonging to highly specialised professions are small and powerless and not helped by a propensity to be insular, inward-thinking and passive. What these professional groups have to say about recordkeeping seems to be virtually invisible both to decision-makers in government and, often, the wider Australian community as well.
- under siege, because the climate of economic rationalism has led to the downsizing of the bureaucracy and a focus on outcomes rather than on due process. This has often caused a severe constraint on records management programs and the breakdown of traditional records management practices. As a result, often the quality of recordkeeping has diminished.
- problematic and costly, because often organisations seem to be intimidated by the sheer scope of the implications of the electronic age into short-sighted ‘quick fixes’ and IT-industry hype. As a result, considered spending and strategies on long-term recordkeeping planning, infrastructures and maintenance often seem to be ignored, resulting in inefficient management practices and increased exposure to public scandals.

But it is also important to remember that:

- Today the Commonwealth government spends more money and devotes more time and effort to the creation and management of data and other recorded information – the raw stuff of records – than ever before.
- The requirements of good recordkeeping itself are not invisible within government. The Australian National Audit Office’s reports constantly bring the importance of good recordkeeping before the Parliament and the wider Australian community.<sup>3</sup>
- The Australian Standard on Records Management AS 4390 gives the need for good recordkeeping a new credibility throughout the private and public sectors.<sup>4</sup>
- In Australia more than one software development house makes a handsome living selling the need for good electronic recordkeeping in both the public and private sectors and across all jurisdictions.
- In the IT-industry press there are almost daily articles about new products or initiatives for improved data integrity and security and the authentication of Internet transactions. Although not often

described in the way that recordkeeping professionals would like, these technological initiatives are often trying to address unarticulated recordkeeping concerns.

What is obvious from all this activity is not the marginalisation of recordkeeping issues but a change in the traditional approaches to recordkeeping problems. Why is this? There is no doubt that the recordkeeping community has serious concerns. But does it suffer from unrealistic reactions?

The challenges facing recordkeeping are the same challenges authorities like the National Archives face in attempting to enact standards and practices that will ensure good recordkeeping, and which aim to help government agencies manage the electronic environment.

During the last two years the National Archives has developed a strategic and comprehensive framework based on modern recordkeeping principles as well as a support network of innovative initiatives in marketing, promotion and training.<sup>5</sup> Together, these approaches will facilitate best practice recordkeeping in the Commonwealth, but more importantly, will also leave the Archives better placed than ever before to meet the challenges outlined above.

Part of the reason for implementation of these strategies began with the realisation that the Archives' marginalised position within the Commonwealth was hampering its ability to have recordkeeping strategies incorporated in government at the strategic, decision-making levels. This was no more obvious than in experience with the development of the Electronic Transactions Act.

Government agencies may be operating within numerous constraints but these are not insurmountable to recordkeepers who fully understand the political, legislative and fiscal environment in which they operate. The electronic environment and the rise of e-commerce offer the recordkeeping community perhaps the best opportunity to re-establish itself as an integral part of government infrastructure since World War II.

A youthful Federal government was shocked into recognising the importance of recordkeeping, when it came to the massive task of mobilising a defence force to participate in World War II. The loss of invaluable evidence of the actions taken during World War I, prompted the Curtin government to take the creation and retention of records seriously and so too a fledging National Archives.<sup>6</sup> It was a combination of the incredible detriment of loss and a realisation of the benefits archival and recordkeeping practices could bring that prompted widespread adoption. Government administration is on the cusp of such a loss now, in the electronic age. There may not be the massive impetus of a World War to drive home this realisation to government, but we do have the only thing to rival it – economics. What better way to trigger a

do have the only thing to rival it – economics. What better way to trigger a realisation that it is in government's best interests to adopt sound recordkeeping practices, than the immense potential loss inherent in e-commerce?

It seemed to the National Archives then and now as such an obvious connection to make. But archivists and records managers have to face the realisation that it is not quite so simple. They have to realise that they can't continue to be complacent and self-righteous about the logicity and advantages of doing it the way they expound.

The professions have a lot to offer, including reiterating the principle of accountability in recordkeeping. But, they need to do more than behave as soothsayers of noble virtues. E-commerce offers the professional community the perfect opportunity. It serves as an impetus for traditional recordkeeping professional groups to acknowledge the lack of success of their current approaches, but also to harness the serious concerns impacting on the electronic environment to tailor the right approach. E-commerce and recordkeeping is a wake-up call that the professions cannot afford to miss.

The challenge is how to harness that opportunity. The National Archives' response to this is to re-establish its relevance and profile in government, or in other words develop realistic responses to serious concerns.

### **Electronic Transactions Act 1999 – Recordkeeping nemesis or revelation?**

The National Archives' experience with the Electronic Transactions Act was but one example of many highlighting the necessity to recover its relevance and profile in government. The Electronic Transactions Act prompted a reaction in the recordkeeping and archival community that records and recordkeeping have been unfairly and unceremoniously disregarded. The professional listservs gave rise to many such sentiments, as did the professional literature and conference papers.<sup>7</sup> These comments often expressed the dissatisfaction the profession feels at the lack of substantial interest in or take-up of recordkeeping principles in e-commerce, or, it is probably correct to say, those recordkeeping principles advocated by traditional professional groups. One thing made clear by the development of electronic transactions legislation, and the electronic environment in general, is that recordkeeping principles can be identified everywhere. It is just that outside the recordkeeping profession they are simply enunciated differently.

The Electronic Transactions Act is a pivotal piece of the legislative and regulatory framework the Commonwealth government has established, and

continues to develop, to support e-commerce and the broader information economy environment.<sup>8</sup>

The central effect of the Electronic Transactions Act is to provide that electronic and paper transactions are treated equally by the law through the specification of certain minimum requirements. The most notable effects for Commonwealth agencies are that:

- they may specify certain IT requirements for an electronic transaction, such as the use of e-signatures;
- clients involved in an electronic transaction must take action to verify receipt of information from the Commonwealth; and
- Commonwealth agencies may require information regarding an electronic transaction to be stored in a certain format, and may refuse low-quality storage devices.

The National Archives has expressed its support for the aim of the Electronic Transactions Act to ensure that information arising from electronic transactions is readily accessible for subsequent reference. This after all is the outcome all forms of recordkeeping seek.

In discussing the Act, it is important to understand that it was always intended to be a 'light-touch' piece of legislation. This is to be expected, as it is consistent with the legislative trend of the current Federal government and the close relationship with international initiatives. The intent of the legislation was not only to address legal issues but also to inspire trust in e-commerce in the public and private sectors, whose concerns for security, privacy and stability in the electronic environment were hampering its growth. The legislation was also intended to make Australian government and industry better placed to participate in global e-commerce through consistency with international models.<sup>9</sup>

Before the Electronic Transactions Act was conceived, the Attorney-General's Department established the Electronic Commerce Expert Group to advise on whether legislation was required in the Commonwealth, and if so, what form it should take. In its paper, *Building the Legal Framework*, the Expert Group concluded, among other findings, that information should not be denied legality due to electronic form, that information should be accessible and useable, and that origins and content could be reliably established.<sup>10</sup>

Anne Picot provided what was probably the most forthright and strident critique of this report from a recordkeeping professional in the November 1998 issue

of *Archives and Manuscripts*. She argued in her review that in arriving at its conclusions, the Expert Group showed little understanding of recordkeeping or its potential value in the electronic environment, which ultimately affected its inability to arrive at recommendations that would acknowledge, let alone incorporate, recordkeeping requirements. As recordkeeping principles, standards and practices have much to offer such a legislative framework, it was deemed disappointing that they were disregarded for this legislative initiative.<sup>11</sup>

Given the passage of both this legislation, and time, it is crucial to objectively analyse the archivists' and records managers' approach to electronic legislative initiatives. It is important to firstly examine how terminology is used in analysing legislation for the electronic environment. Anne Picot said in her review that the report was indicative of the message, 'for information, read record throughout'. She then went on to state that the response to e-commerce recommended by the report was 'based on a minimal understanding of recordkeeping'.<sup>12</sup> What she really meant was 'recordkeeping' according to records managers' and archivists' interpretations of how recordkeeping should be conducted. Records managers and archivists have tried extremely hard to infuse the word 'recordkeeping' with their own interpretation of what that entails, to the exclusion of all other potential interpretations.

While this may be the way these professional groups are content to view it, it could well be that ultimately it is to their detriment. In establishing themselves as having ownership of terminology and convincing themselves of their specialist expertise, the professions are reducing their ability to see beyond this professional parameter to assess how others view and understand recordkeeping.

For example, the information principles espoused in the Expert Group's report are those very principles that archivists consider to adequately capture and manage a record – access, integrity, and authentication, among others.

So, if the principles being espoused are to all intents and purposes one and the same, where is the problem for archivists and records managers? The problem is that the recordkeeping professionals are not adequately reading the environment they are in, one where they want to make a much bigger impact.

With the benefit of hindsight, it was naive to expect or recommend the kind of treatment by legislators and policy developers that Anne Picot was requesting in her review. Based on the National Archives' experience with this legislation, including advocating the standards as Anne Picot recommends, it was the archivists and records managers who showed the 'minimal understanding'.

Perhaps recordkeepers suffer from somewhat of an isolationist and idealistic view of how government legislative and policy development actually works. If the professions are ever to progress the cause of recordkeeping in government and especially in environments like e-commerce, they perhaps need to broaden their understanding of the playing field they find themselves on, where exactly they stand on it, and what realistic, constructive measures they can take to advance their concerns.

Firstly, the professionals need to acknowledge the reality that the archives and records management professions have suffered both from a low profile and a lack of perspective and understanding of the motivations and aims of those stakeholders outside the recordkeeping sphere.

Why should it be expected that developments at a macro-government level such as strategic policy and legislative development like the Electronic Transactions Act recognise the recordkeeping sector as one that should be consulted and considered? It is quite unrealistic to expect this when even the professions themselves acknowledge that they have such poor visibility as a professional group, and their awareness and understanding of how recordkeeping is viewed by the decision-making levels of government is so limited.

The National Archives was not consulted or specifically invited to comment on the initial development of the Electronic Transactions legislation in regard to its view on potential recordkeeping issues. Although, like many Commonwealth agencies, the Archives was consulted in its capacity as a caretaker of a legislative instrument (the Archives Act) and as a Commonwealth agency with the potential to conduct electronic transactions. The National Archives did, however, make a submission on the Electronic Transactions Bill in regard to its concerns about the Bill's lack of consideration of recordkeeping issues. The Archives subsequently made numerous comments to the Attorney-General's Department on further drafts, attended consultative sessions held by the Department, held meetings with representatives, and ultimately formally expressed its disappointment with the outcome.

The Archives' comments demonstrated its acknowledgement of the 'light-touch' intention of the proposed legislation, but also endeavoured to stress its belief in the importance of specifying minimum recordkeeping requirements (recordkeeping requirements as archivists and records managers would have them) within the legislation. These minimum requirements included capturing records arising from electronic transactions into an agency's recordkeeping system, following the national records management standard, AS 4390, and any practices mandated by the National Archives.



The response of the Attorney-General's Department, while acknowledging the importance of proper recordkeeping practices, continually maintained that incorporating specifications like the recordkeeping requirements the Archives was requesting, would formalise the legislation to too great an extent and recordkeeping issues were better placed to be handled by individual agencies.

Given that submissions from the National Archives made little impact, it is perhaps useful to consider some fundamental issues that may have caused this to happen. The position that the Archives put forward as a professional organisation was one that defended the integrity and intent of the principles and practices of modern recordkeeping. That they were not taken up is a cause for disappointment. But the disappointment, or expectations, about the legislation was perhaps unrealistic. A lesson learned is that other perspectives need to be considered by the recordkeeping professions before expecting recordkeeping requirements to be part of strategic government approaches.

The trend in government is clearly to avoid severe regulatory frameworks in dynamic and technology-driven areas, unless it is to serve a community-based concern such as the recent legislation restricting certain content being promulgated through the Internet.<sup>13</sup> Therefore archives and records management professionals should acknowledge that directions in legislation and strategic government policy are likely to be such that there is not room for recognition of records issues as the archival and records management professions would have it.

There are other forces influencing strategic government frameworks far greater than any benefit that would have been gained by incorporating recordkeeping requirements. For example, as with the Electronic Transactions Act, the influence of international models and trends, and the needs of the private sector (also heavily affected by this legislation) are more than enough to drive out any consideration of specific recordkeeping issues. These issues are perhaps correctly perceived by these levels of government to be merely implementation concerns.

In its background report, the Electronic Commerce Expert Group, which looked at the various implications for the Commonwealth regarding a range of legal issues related to electronic transactions, considered albeit minimally the Archives Act and the Australian Law Reform Commission's review of that Act.<sup>14</sup>

The Group looked at legal requirements for the retention of records in Commonwealth legislation, especially in regard to their ability to provide for electronic records. They considered a number of Acts. While they found that the Law Reform Commission's review of the Archives Act provided for a

recognition of electronic documents within legislative mechanisms, Commonwealth legislation as a whole lacked a uniform approach and was often complicated by requirements such as those for signatures. On this basis, they recommended the adoption of a clause that would facilitate the equivalent of electronic and paper-based record retention requirements. More telling was the statement that records management systems should be standardised at *technical* and *policy* levels and based on a common definition of an electronic record.<sup>15</sup>

Given the lack of consistency regarding definitions of a record (and an electronic record) in Commonwealth legislation, it is not surprising that the Group reached a conclusion that was as generic and flexible as possible, and relegated more stringent requirements to the implementation level. Considering the National Archives' own struggles with an outdated definition of 'record' enshrined in its legislation and the professions' own debates on what constitutes a record, perhaps there should be more of an understanding of such impediments to legislative progress.

Perhaps, it is more important to consider *why* it is that those involved did not understand the value of professional recordkeeping principles. Perhaps the professions do not possess an understanding of groups outside their own on recordkeeping and information management related issues. Strategic government policies on business transactions have never defined a 'record' or 'recordkeeping requirements' as archivists and records managers would. And, if they have, were these definitions not grounded in the inherent assumptions of a paper-based environment? Government policy, as should be expected, has simply addressed general information concerns such as integrity of information, access to information, and the authentication of information as those defining these policies understand them. Indeed, the intention of those developing the policy was not to alarm stakeholders by anything too different from previous provisions. It was simply an extra measure to supplement existing legal frameworks and inspire trust in a crucial industry. So it is perhaps logical that government policy would transfer previously held understandings of document and records issues such as signature authentication from a paper-based environment to an electronic one. It was seen to be important, perhaps ironically, to specify minimum requirements for such things as storage format and e-signatures, in order to gain some control over integrity and authentication. Why this when they could have included very general definitions of a 'record'? It goes back to the policymakers' motivations for the legislation and their contentment to continue to categorise information content as data, and not bother to define an 'electronic transaction' within the archival parameters of a 'record'. They were simply behaving as they have always done.

Furthermore, rather than employing broad conceptual understandings to assess the shared recordkeeping principles illustrated by the electronic legislative development, as a sound basis on which to advocate standards and practices outside the legislative arena, archivists and records managers have tried the approach that the 'problem' arises when standards and practices are not legislatively mandated. While reports like that of the Expert Group espouse sound information and archival principles, in reality, no sound legislative problem exists. After all, the Electronic Transactions Act was created to manage, legislatively, the problems of electronic documents. In essence, this means the consideration and solution of recordkeeping principles, hence its focus on areas such as access, integrity, reliability and authentication, and its setting of minimum requirements. This is prescribing recordkeeping practices, only not in the formalised way modern records professionals would.

Having said that, why would legislators realistically consider incorporating archival standards and practices when this would only go against their motivations for minimalist legislation and also when these standards and practices are able to be applied at an implementation level? Indeed, why would they go to the effort to invite archivists and records managers to participate in deliberations on legislation, when the sound recordkeeping principles legislators are quite capable of identifying, can be met by other recordkeepers such as those developing information technology systems? Especially when the most logical place for standards and practices is at the implementation level.

The information and recordkeeping issues identified in strategic legislation – such as integrity and authentication – are also ones that records professionals share and indeed address in an empirical manner. While in practice archivists and records managers too have usually transcribed recordkeeping principles from a paper-based environment to an electronic one, they have also furthered the development of these principles to accommodate the differences, such as perceived instability, in the new environment. While these progressive measures in the recordkeeping profession have much to offer the management of electronic transactions, without the benefit of a tradition of advocacy, lobbying and promotion of recordkeeping methodology, there can be little realistic expectation that government policymakers will either be aware of the progressions, be sufficiently convinced to legislate or regulate what records professionals consider to be beneficial and crucial requirements, or be prepared to risk the flexibility of legislation with requirements like defining a record or the characteristics of a record. These policymakers know that, if found to be problematic to implement, amending legislation does not move quickly.

If it is accepted that recordkeeping requirements are not going to make their way to strategic legislative environments, where can they realistically be mandated and provided for? There are places for recordkeeping to be addressed in government, but the recordkeeping profession needs to be clear about what aspects of recordkeeping are suitable for which strata of government infrastructure and how best this is achieved. At the macro-government level, in legislation and strategic policy, recordkeeping should be enshrined, not as a definitive requirement in specific legislation, especially in legislation specialising in a dynamic environment, but as a responsibility of the government as a whole. This responsibility should be delineated by each aspect of government according to broadly applicable standards and practices mandated by an archival and records authority. These standards and practices are ultimately promulgated and worked out at the implementation level.

For example, in regard to the Electronic Transactions Act, if the National Archives had not concentrated on a narrow focus of the recordkeeping 'problem', it may have been in a better position to request and successfully achieve the specification of archival standards and practices at the regulatory level.

The two-pronged approach to recordkeeping, of both minimal but effective legislative mechanisms and implementation strategies, is supported by AS 4390 in its recommendation relating to the allocation of responsibility at the Chief Executive Officer or senior management level, and also proposed by the Law Reform Commission review of the Archives Act.<sup>16</sup> The Commission's review both advocates CEO responsibility and provides the Archives with a mandate to issue standards and guidelines for the spectrum of recordkeeping issues, from creation to disposal, from custody to access. This strengthens the Archives' position in applying the necessary principles at the implementation levels of government.<sup>17</sup>

The National Archives has also recently asked Commonwealth agencies to nominate a senior officer with responsibility for recordkeeping in their agency in accordance with AS 4390 practice.

It is therefore necessary to determine what role there is for the recordkeeping professionals' version of recordkeeping in e-commerce, and where and how it is supposed to feature. In essence, rather than express disappointment about the lack of recognition of recordkeeping issues until next time recordkeepers try again to be heard, and especially without adequately analysing the environment they are critiquing, the professions must find other ways of strengthening their position. As the National Archives has learned, the

professions must act strategically, creatively and proactively. They must harness the political enthusiasm for and visibility of e-commerce by looking for mutually beneficial and complementary outcomes and endeavour to have their recordkeeping concerns addressed by government (and other stakeholders) through other means such as:

- marketing strategies to raise the profile of recordkeeping to government, industry groups and the public – e-commerce is one way;
- creating and seeking opportunities to participate in decision-making forums and promote recordkeeping aims;
- responding to and lobbying for recordkeeping issues as they arise on a macro-level;
- explicitly stating the benefits, outcomes and wins to be had from following appropriate recordkeeping measures (and e-commerce facilitates this extremely well); and
- presenting recordkeeping aims and issues in such a way that is readily accessible to government, or in other words, proffer relevant information presented as motivations, needs and understandings or desired outcomes demand (again, another area which lends itself to the e-commerce environment).

### **Who are the stakeholders and what are their roles?**

In the development of strategies for electronic business transactions generally and e-commerce and recordkeeping specifically, various stakeholders will have different approaches.

#### **Government generally**

The role of governments in facilitating e-commerce or the conduct of electronic transactions is to establish a strategic vision; develop a legal, regulatory and policy framework; encourage widespread investment and growth in related industries; foster confidence and trust in the general public and business communities; and perhaps most importantly, to lead by example. After all, governments in Australia may be depleted in size, but they are still businesses to rival the Lendleases and News Corps.

In regard to recordkeeping in general, governments have a responsibility to be accountable to the Australian public. They can do this by adequately documenting their actions in the form of creating and capturing records to a level that would meet business, legislative and archival requirements.

### **Law-makers and policymakers**

The role of law and policymakers is crucial to the success of electronic commerce. To some extent, the playing field has already been mapped by these groups, for the next couple of years at least. The legal framework in the Commonwealth has been established with the passage of the Electronic Transactions Act, and is being furthered internationally with involvement in global legislative frameworks. The policy framework is broadly represented by the impetus to facilitate an information economy and specifically, to move appropriate government transactions online.

Recordkeepers must face the reality that the macro-legal and policy environments are not as conducive to addressing recordkeeping concerns as archivists and records managers would have them. Recordkeeping concerns, while facilitating strategic aims, are essentially about implementation issues. Their role, as policymakers and legislators see it, is to establish functional and flexible 'light-touch' frameworks that provide broad parameters for an e-commerce environment but don't suffocate it with requirements. After all, in such a dynamic area as information technology, it is crucial that any frameworks are flexible enough to accommodate ongoing and fast change.

### **Recordkeeping professionals**

From the National Archives' point of view, in the e-commerce environment, recordkeeping professionals span a range of groups that employ recordkeeping principles to manage the electronic environment. Indeed, the more communication and mutually beneficial sharing of information between archivists, records managers, web and database managers, and industry groups, the more likely that an infrastructure will grow that is interoperable and serves numerous business and recordkeeping processes at once. It is also a prime environment to foster the implementation of standards and practices that can be adopted by all key groups. It is sometimes not a fervent requirement to seek legislative mandates either. For example, Keyword AAA, a classification tool, is applied all over the country. Website guidelines can connect web managers with records managers through the sharing of metadata.<sup>18</sup> Basically, if the processes are efficient and flexible, legislative mandates are not necessary.

The role of records managers and archivists is more than to act as noble soothsayers of the virtues of accountability. While it is important to continually seek chances to highlight the prominence of our recordkeeping requirements for e-commerce, it is crucial that those noises be heard in the right forums with a message that will be listened to. In other words, records managers and archivists need to be realistic about their status as a small and marginalised

professional group and the constraints this places on advocating a message. We need to be visionary and creative about how we get the message not only heard, but also delivered with the right focus. We need to have cost-effective solutions that marry the outcomes we seek with the outcomes organisations seek in the delivery of electronic services.

### **Industry groups**

Industry groups are crucial to the establishment, functionality and take-up of an e-commerce environment. They are consulted in high-level forums and encouraged through government-driven investment initiatives. They are also supported by lucrative government-led online infrastructures like the Business Entry Point and the Department of Foreign Affairs and Trade's New Silk Road.<sup>19</sup>

In regard to the implementation of archival and recordkeeping practices, industry groups are crucial to our ability to convince government agencies and businesses that adopting appropriate recordkeeping practice is good business sense. If the recordkeeping community and industry groups like software vendors are able to develop informative and mutually beneficial relationships, then the infrastructure government agencies and private sector organisations need is already partially facilitated through appropriately designed software.

### **Australian public**

The role of the general public is really one of client-driven demands and expectations. These expectations are important to recordkeepers, as their inherent need to trust the e-commerce environment is complimented by the ability for recordkeeping concerns, if addressed, to facilitate this trust.

Ultimately they are the beneficiaries of an accountable and efficient government. If the general public can assess the ability for governments to meet their rights and entitlements by recognising that appropriate recordkeeping is crucial in facilitating this, then their electoral support for governments that facilitate this, in turn, supports archival and records authorities.

### **Government agencies**

Government agencies and, in particular, their records managers have a vital role. In supporting the appropriate recordkeeping of electronic business transactions, records managers would aim to identify sectors in their agency likely to require information and assistance in establishing protocols for the recognition, planning, capture, control and management of their electronic records. Agencies would act in partnership with the National or State Archives to facilitate good recordkeeping practices.

### **Government archives and records agencies**

The role of a government archives in electronic business transactions is twofold. The more prominent role is to facilitate the appropriate management of records derived from electronic business transactions in a way that meets archival and recordkeeping obligations like disposal. There are many ways the National Archives could go about doing this. One is to continue to play a passive role in macro-government issues, concerns and initiatives and only be involved at the point at which agencies wish to seek advice in their management of government records, or indeed, wish to dispose of them. Or, the Archives can play a proactive role in promoting the benefit of a strategic approach to recordkeeping in the e-commerce environment to decision-makers in both the Commonwealth and related corporate industries, or a combination of both.

The other role the archives can play, if it is in the position the National Archives is currently in, is to participate in e-commerce as a member of the government – to offer all appropriate services online by 2001.<sup>20</sup> While the National Archives has been offering information services online for many years, it plans to offer services related to its core business online in the near future, including lending and transfer facilities, and also better use information technology to promote access to archival records online. The Archives is also in a position to use its experiences in harnessing recordkeeping systems and e-commerce systems to establish best practice guidelines for Commonwealth agencies. For example, it has implemented its own electronic recordkeeping system based on modern recordkeeping practices.

### **What are the outcomes?**

The management of electronic transactions in accordance with electronic transactions legislative mechanisms and recordkeeping implementation frameworks offers substantial outcomes, both to the agency involved in offering e-commerce services and the archives authority with responsibility for recordkeeping.

It presents an ideal opportunity to harness strong business needs with effective and efficient practices in an electronic environment. This environment need not be viewed as too difficult to manage appropriately. If investment is made, planning and implementation processes followed according to archival standards and guidelines, the electronic environment and the transactions conducted within it are not such an unstable or costly proposition. Indeed, it would only serve to facilitate confidence and trust in stakeholders and clients and foster the growth and stability of e-commerce both within government and externally.



Capturing records on creation and maintaining them electronically is about efficiency and cost-effectiveness as much as it is about sound recordkeeping practice. And it is the job of records professionals to make sure agencies hear this message and hear it well.

More broadly, the rise of electronic transactions offers the perfect opportunity for archivists and records managers to reassess their approaches in promoting their concerns and expertise to strategic legislative and policy levels of government. They need to consider realistic responses that still retain the main focus of the message to address serious records issues, and which have some hope of success. They can do this by marketing their expertise and promoting the acceptance and uptake of recordkeeping systems at the senior levels of government, but with the understanding that the standards and practices they advocate are about implementation issues.

It is really about maintaining a broad awareness of the game recordkeepers are caught up in, strategically assessing strengths and opportunities in relation to the power structures and proactively and creatively harnessing those opportunities. The National Archives may have missed the boat on the Electronic Transactions Act, but lessons were learned that should make it easier next time around.

## ENDNOTES

1 The authors wish to thank Simon Davis, Assistant Director, Preservation Development, National Archives of Australia for input in the development of this paper.

2 Department of Industry, Science and Resources, 'Investing for Growth', at [www.isr.gov.au/growth/](http://www.isr.gov.au/growth/).

3 Australian National Audit Office at [www.anao.gov.au](http://www.anao.gov.au).

4 Standards Australia, *Australian Standard in Records Management – AS 4390*, 1996.

5 More information about the National Archives' framework can be found in the 'Commonwealth Recordkeeping' webpages at [www.naa.gov.au/recordkeeping/](http://www.naa.gov.au/recordkeeping/).

6 Hilary Golder, *Documenting a Nation: Australian Archives – The First Fifty Years*, Australian Archives in assoc. with AGPS Press, Canberra, 1994.

7 For example, Anne Picot, 'Review of Electronic Commerce: Building the Legal Framework', *Archives and Manuscripts*, vol. 26, no. 2, November 1998, pp. 451–64; Livia Iacovino, 'Regulating Net Transactions: The Legal Implications for Recordkeeping in Australia', *Proceedings of the 1998 Australian Society of Archivists' Conference: Place, Interface and Cyberspace: Archives at the Edge, Fremantle, 6–8 August 1998*, ASA, Canberra, 1999, and unpublished conference and seminar papers including Recordkeeping Systems and the Records Continuum Research Group, *Doing Business Electronically: Electronic Commerce and Recordkeeping Seminar*, Australian National University, Canberra, November 1999.

8 Attorney-General's Department, E-commerce webpage, at [www.law.gov.au/publications/e-commerce/](http://www.law.gov.au/publications/e-commerce/).

9 *ibid.*

10 Attorney-General's Department Electronic Commerce Expert Group, *Building the Legal Framework: Report of the Electronic Commerce Expert Group to the Attorney-General, 31 March 1998*, at [www.law.gov.au/aghome/advisory/eceg/ecegreport.html](http://www.law.gov.au/aghome/advisory/eceg/ecegreport.html).

11 Picot, p. 463.

12 Picot, p. 451.

13 *Broadcasting Services Amendment (Online Services) Bill 1999*.

14 Attorney-General's Department Electronic Commerce Expert Group, chapter 2.

15 Attorney-General's Department Electronic Commerce Expert Group, chapter 1, section (vi).

16 *AS 4390*, part 2, section 5.1.2.

17 Australian Law Reform Commission, *Report No. 85, Australia's Federal Record: A Review of the Archives Act 1983*, Sydney, 1998, recommendations 34 and 36, pp. 111 and 121.

18 Further information about the State Records Authority of NSW, *Keyword AAA: A Thesaurus of General Terms* and National Archives of Australia, *Archiving Websites: A Policy for Keeping Web-based Records in the Commonwealth*, can be found at [www.naa.gov.au/recordkeeping/](http://www.naa.gov.au/recordkeeping/).

19 Further information about the Business Entry Point can be found at [www.business.gov.au](http://www.business.gov.au). Further information about New Silk Road can be found at [www.dfat.gov.au/nsr/](http://www.dfat.gov.au/nsr/).

20 Further information about the Commonwealth Government Online Strategy can be found at [www.govonline.gov.au](http://www.govonline.gov.au).