



Australian Government
**Department of Industry, Science,
Energy and Resources**

Senator Andrew Bragg
Chair
Senate Environment and Communications Legislation Committee
Parliament House
CANBERRA ACT 2600

Dear Senator Bragg

On reviewing the Proof Hansard of the testimony given by the department at the Senate Estimates hearing on 25 October 2021, we find that some of the information provided to the Committee would benefit from clarification and correction.

The following exchange occurred between Senator Patrick and myself, Deputy Secretary Ms Jo Evans:

Senator PATRICK: Let's put aside the disallowance, because in some sense that's completely out of your control. It might be the case that it's not disallowed but still subject to legal challenge. When you say you've got advice that it's all okay, are you saying you've sought some independent advice in relation to that particular issue raised by the Scrutiny of Bills Committee—or the Committee for the Scrutiny of Delegated Legislation? I apologise.

Ms Evans: Perhaps if I can answer, because, again, the department is responsible for drafting those regulations and for obtaining legal advice on their validity, which we have done, and, because ARENA is the affected agency for that, we were able to share that advice with ARENA, so they are aware of that. They, to my knowledge—and Daren can confirm—haven't taken separate legal advice, because the appropriate agency to provide that to a Commonwealth agency is the AGS.

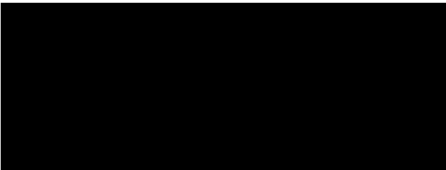
Senator PATRICK: So you'd considered it tied legal advice on a constitutional issue and went to the AGS?

Ms Evans: We certainly used the AGS. That's right.

I write to clarify that ARENA did also seek their own legal advice on this matter, separately from the Department. ARENA also sought their advice from the Australian Government Solicitor. I did not recall this information on the day of the hearing, despite having been made aware of it previously.

I apologise for any inconvenience caused and ask that you alert other members of the Committee to this correction.

Yours sincerely



Jo Evans
Deputy Secretary

15 November 2021