

## **Senate Environment and Communications References Committee**

### **Australia Post inquiry**

**Australia Post Further Submission  
11 May 2021**

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## 1. Introduction

Australia Post appreciates the opportunity to provide this further written submission (**Further Submission**) to assist the Senate Environment and Communications References Committee (**Committee**) with its inquiry (**Inquiry**).

This Further Submission should be read in conjunction with, and as a supplement to, Australia Post's written submission of 19 March 2021 (**First Submission**). For ease of reference, appendices have been sequentially numbered across the First Submission and this Further Submission. **Appendices 1-27** are attached to the First Submission and **Appendices 28-34** are attached to this Further Submission.

In preparing this Further Submission Australia Post has endeavoured to address material issues raised during the course of the Inquiry to date – including material issues arising from the evidence provided by Committee members, and by third parties to the Committee, or during the Inquiry's hearings or in writing since the First Submission was provided to the Committee. Australia Post otherwise reiterates the evidence set out in Australia Post's First Submission, as has been further detailed in recent weeks during the Inquiry's hearings and in writing in response to questions on notice and provides this Further Submission to assist the Committee.

Given the volume of evidence provided to the Committee to date it is neither possible nor practical to address all evidence presented by third parties during the course of the Inquiry – whether about Australia Post, its representatives, or otherwise. Accordingly, Australia Post requests – on behalf of all of its representatives – that, if the Committee proposes to make an adverse finding in respect of a particular claim made regarding an Australia Post representative, which has not been put to that representative during the Inquiry's hearings or directly addressed in the First Submission or Further Submission, the Committee first provide an opportunity to that Australia Post representative to consider and respond in writing to that particular proposed finding.

Should the Committee require any further information, Australia Post would be pleased to assist.

**Australia Post**

11 May 2021

<b>2. Ms Holgate's claims regarding Australia Post's service model</b>	
<b>Ms Holgate's claim</b> (document tabled on 13 April 2021 titled " <i>F, The issues surrounding the secret review of Australia Post by the Boston Consulting Group leading to the introduction of changes to Australia Post's service model</i> ")	<b>Australia Post's response</b> Australia Post's positions in relation to the substantive aspects of Ms Holgate's claims are identified below.
<i>Listening to the voice of the customer and seek a thorough understanding of the impacts of stopping priority mail and longer delivery times.</i>	Australia Post agrees.  Our customers come first. An alternative priority product has been in operation for several months for bulk lodgement customers.
<i>The projected future growth of parcels. I believe this will continue to be strong as the trends of ecommerce have now become a reality for shoppers and retailers.</i>	Australia Post agrees.  A sustainable future in the increasingly competitive parcel delivery sector is highly reliant on Australia Post being able to make self-funded investments that enable us to capture the eCommerce growth opportunity.  There is rapidly growing competition in parcel delivery from existing and new entrants.  Australia Post must provide a letters service that both meets community expectations, but also minimises letter losses to remain competitive and ensure a sustainable future and protect the jobs of employees, without becoming a burden to the taxpayer as has occurred in other countries including New Zealand, Canada and the United States.
<i>The opportunity to develop financial and other trusted services to ensure communities are served and post offices remain viable.</i>	Australia Post strongly supports the continued viability of its Post Office network, including its critical Licensed Post Office (LPO) network.

	<p>The small businesses that operate the LPO network rely on their businesses being able to offer a range of products and services that customers value and trust.</p>
<p><i>I do not believe Alternative Delivery Days in metro or not, is the real issue, but how much resources do Australia Post need, to deliver on time and efficiently</i></p>	<p>Australia Post agrees that resources should be aligned with community service obligations.</p> <p>Our customer research is showing that:</p> <ul style="list-style-type: none"> <li>• delivery speed is valued over delivery frequency; and</li> <li>• 46 per cent of consumers and 52 per cent of businesses believe the Alternative Delivery Model (<b>ADM</b>) is permanent already.</li> </ul> <p>Over recent months Australia Post has demonstrated that it can deliver letters to the pre-COVID delivery timetable at around 92 per cent (vs the prescribed standard of 94 per cent), while operating the ADM. Further improvements are likely when the domestic air and road transport networks approach pre-COVID levels.</p>
<p><i>The growth of ecommerce has heightened the need for speed.</i></p>	<p>Australia Post agrees, parcels are being delivered every day through a combination of redeployed “Letter Posties” and parcel contractors.</p>
<p><i>As Qantas opens its air network and PPE and safe distancing requirements are relaxed, costs should be saved.</i></p>	<p>Australia Post agrees, and cost savings will be phased into operations in line with easing of COVID restrictions and domestic and international air networks returning to pre-COVID levels.</p> <p>However with a 16.6 per cent decline in letter volumes resulting in 314 million less letters, the significant loss in revenue will considerably offset any post-</p>

	<p>COVID related cost savings and therefore add considerable pressure to the ongoing financial sustainability of Australia Post, if it is to continue to invest and not become a burden on the Australian taxpayer.</p>
<p><i>If the temporary regulatory relief is extended, is it all of the relief, how long for and how long will it take Australia Post to adapt to a different model again.</i></p>	<p>Australia Post agrees that not all aspects of the temporary regulatory relief are required post June 30, 2021. Of the substantive components:</p> <p><b><u>Post Offices</u></b></p> <p>This is not required on an ongoing basis.</p> <p><b><u>Priority</u></b></p> <p>An alternative priority product for bulk lodgement customers is already in place and plans are underway to implement an additional priority product.</p> <p><b><u>Delivery Timetable</u></b></p> <p>Intrastate delivery timetable was extended. It is expected that this can returned to close to pre-temporary regulatory relief levels.</p> <p><b><u>Delivery Frequency</u></b></p> <p>The average delivery address is now only receiving a letter every 2-3 days. With a 16.6 per cent decrease in letters post-COVID there are now 314 million less letters to be delivered across an increasing number of delivery points. As a consequence, some reform is needed to ensure the letters business is sustainable.</p>

<i>Changing models is highly disruptive.</i>	<p>The combination of COVID restrictions impacting operations, significant parcel volumes and the change to ADM was highly disruptive for Australia Post's people.</p> <p>However, that change management has now taken place, with ongoing incremental operational refinements being undertaken.</p> <p>With a 16.6 per cent decrease in letters post-COVID there are now 314 million fewer letters to be delivered across an increasing number of delivery points.</p> <p>Australia Post agrees change is difficult. To change this year and then likely change again in the future as letters decline even further therefore providing little benefit to the community will have a significant impact on the health and safety of Australia Post's people.</p> <p>The current model is a sustainable model over the longer term.</p>
<i>The trade off from delivering significantly higher dividends compared to protecting services and jobs, whilst still remaining viable and delivering to the purpose of Australia Post for the benefit of all Australians.</i>	<p>Australia Post always seeks to balance its responsibilities to the community through the community service obligations, its people, and not being a financial burden on the Australian taxpayer.</p> <p>Other postal organisations including NZ Post, Canada Post &amp; the US Postal Service have become significant burdens to their taxpayers.</p>

<b>3. Did Ms Holgate agree to stand aside?</b>	
<b>Ms Holgate's position</b>	<b>Australia Post's position</b>
Ms Holgate's position is that she did not agree to stand aside from her position as Group Chief Executive Officer & Managing Director (GCEO&MD).	Further to section 2.1 of the First Submission, Australia Post reiterates that Ms Holgate agreed with the Chair (Mr Di Bartolomeo) to stand aside from the role of GCEO&MD of Australia Post pending the outcome of the Shareholder Investigation and any further actions taken by Australia Post.
<b>Analysis of respective positions and relevant evidence</b>	
<p>The key evidence relevant to whether Ms Holgate agreed to stand aside is analysed below.</p> <p><b>Phone calls between Ms Holgate and the Chair</b></p> <p>In her submission dated 19 March 2021, Ms Holgate claims (at pages 41 and 77) that she did not speak to the Chair at all on the afternoon of 22 October 2020, following Question Time.</p> <p>However, phone records of outgoing calls (obtained from Telstra and tabled by Australia Post at the Inquiry hearing on 13 April 2021) record three substantive telephone calls between the mobile phone numbers of Ms Holgate and the Chair on the afternoon of 22 October 2020 after Question Time. Two of those calls (at 4:27pm and 5:50pm) were initiated from Ms Holgate's mobile number.</p>	



Time	Duration	From	To
4:27pm	2:51	CH	LDB
4:42pm	0:02	LDB	CH
5:50pm	4:25	CH	LDB
6:38pm	2:20	LDB	CH

The Chair referred to two of these calls (at 4:27pm and 5:50pm on 22 October 2020) in a public statement on 7 April 2021 (**Appendix 28**):

*“Ms Holgate claims that she did not speak with me that afternoon at all after Question Time (the relevant parts of which occurred between approximately 2.30pm and 2.40pm). However, phone records support my recollection – including that we had conversations at 4:27pm and 5.50pm on that day.”*

In response, Ms Holgate addressed the phone calls in her subsequent submission dated 13 April 2021, on page 4:

*“The two calls on my records to the Chair’s phone are at 4.27pm for 2 minutes 51 seconds that day and at 5.50pm for 4 minutes 25 seconds. I do recall seeing I had missed calls from the Chair whilst on other calls and I called back and passed my phone to Sue Davies as I did not want to speak to him as I was extremely disappointed in what had happened.”*

This assertion is not supported by the evidence of Ms Davies at the Inquiry hearing on 13 April 2021. When asked by Senator Hanson (see page 30 of the transcript) whether there was “a point where the Chair, Di Bartolomeo, rang Ms Holgate and she gave the phone to you and you spoke to him”, Ms Davies stated that she “didn’t recall that happening” and that her recollection “would be that the Chair called me on my phone because Christine’s phone was busy”.

Subsequently (see page 31 of the transcript), Ms Davies was asked whether Ms Holgate called the Chair and passed the phone to her. Ms Davies stated:

*“As I said previously, I do recall speaking to the chair. I do recall the chair asking me how Christine was, and I said she was extremely upset and extremely disappointed and very distressed. We absolutely had that conversation and he absolutely asked me to get Christine to call him back. I'm really sorry, I don't remember the point where phones were swapped. That's not to say it didn't happen. Like I said, it was a very upsetting day for everyone.”*

Phone records of outgoing calls for the Chair's number (obtained from Telstra and tabled at the Inquiry hearing on 13 April 2021) record a telephone call from the Chair to Ms Davies at 4:18pm on 22 October 2020, that lasted 1 minute 27 seconds.

This is consistent with Ms Davies evidence, referred to above, that the Chair asked Ms Davies to get Ms Holgate to call him back – and there was a call from Ms Holgate's phone to the Chair's phone minutes later at 4:27pm.

The minutes from the Board meeting on 22 October 2020 (tabled by the Chair at the Inquiry hearing on 13 April 2021) also record that the Chair spoke to Ms Holgate that afternoon.

The phone records, the evidence from Ms Davies and contemporaneous Board minutes all support that Ms Holgate and the Chair did speak that afternoon, following Question Time.

#### **Evidence of Ms Davies**

Ms Holgate claims that Ms Davies was with her throughout the afternoon of 22 October 2020 and could verify that Ms Holgate never agreed to stand aside.

During the Inquiry hearing on 13 April 2021, Ms Davies evidence (at page 31 of the transcript) was *“I was not aware. I certainly do not recall a conversation where Christine agreed to stand down.”* When asked by Senator Hanson *“When you say it ‘don't recall’, are you saying it didn't happen?”* Ms Davies replied *“I'm saying I don't recall. I don't know whether that happened or whether it didn't happen”*.

Senator Canavan asked “*So there were many times or occasions when Ms Holgate would have been speaking on the phone but you just weren't taking that in or hearing it because you were otherwise occupied*”. Ms Davies responded that “*I remember us both being on the phone together at the same time and sort of turning away so that we could actually concentrate on the calls*”.

#### **Board meeting of 22 October 2020**

Ms Holgate appears to be claiming (see page 49 of her submission dated 19 March 2021 and page 4 of her further submission dated 13 April 2021) that:

- a Board meeting never occurred on 22 October 2020;
- the Board never approved asking Ms Holgate to stand aside;
- the Board never approved the public statement made by the Chair on 22 October 2020; and
- the Chair mislead the Board about conversations with Ms Holgate.

The First Submission provided detailed information (in sections 2.1.6, 2.1.7 and 2.1.9) regarding a Board meeting on 22 October 2020. Nevertheless, Ms Holgate continued to speculate that the meeting did not take place:

- at page 4 of her submission dated 13 April 2021: “*If there was a Board meeting, as the Chair continues to claim ...*”; and
- at the Inquiry hearing on 13 April 2021 (page 9 of the transcript): “*I do not believe a board meeting took place*”.

At the Inquiry hearing on 13 April 2021, the Chair tabled minutes of a Board meeting conducted on 22 October 2020. The minutes record that a Board meeting did take place by telephone and that the Board resolved to ask Ms Holgate to stand aside, noted the Chair’s advice that Ms Holgate had agreed to do so, and approved the issuing of a public statement (in the terms then released later that night. Further details are set out in the First Submission in sections 2.1.6 to 2.1.10.

As identified in evidence during public hearings of the Inquiry, Board members would have convened a meeting regarding the watches revelation, even in the absence of other developments that day. As identified in the Minutes of the 22 October 2020 Board meeting, the Board considered a number of factors at its meeting before making its resolutions.

### **Conversations with Tony Nutt**

Ms Holgate claims that she had numerous discussions with Tony Nutt (a non-executive director of Australia Post) during the afternoon of 22 October 2020. Australia Post acknowledges Ms Holgate also had informal communications with other Australia Post representatives during the afternoon of 22 October 2020, including Mr Nutt.

Notwithstanding those discussions, which were intended to provide support to Ms Holgate, the Chair was the authorised contact for decisions of the Board and discussions with Ms Holgate in relation to them. The discussions between the Chair and Ms Holgate were consistent with what had been approved by the Board.

At the Inquiry hearing on 3 May 2021, Mr Nutt stated that:

*“The fact is that Christine Holgate asked for my assistance after her Estimates appearance. I spoke to the Chair. We agreed ground rules. I explained those to Ms Holgate. I was not a substitute for the Chair or the full Board. I was not making decisions. I was, however, able to give her support and counsel. This involved: listening to Ms Holgate and trying to work through these difficult issues; giving her my best advice; keeping the Chair updated on our discussions. Noting, of course, that he would speak directly to her himself.”*

### **Ms Holgate’s claims regarding requests for annual leave**

There is considerable commentary in Ms Holgate’s submissions and much time was spent during the Inquiry hearings on Ms Holgate’s request to take annual leave. Australia Post’s position is set out in its submission dated 19 March 2021 (in section 2.1.7):

- there was some discussion with Ms Holgate about the possibility of her taking a period of annual leave; and
- the Chair queried why Ms Holgate would take annual leave, given she would be paid her full entitlements (without reducing her annual leave balance) if she stood aside.

There appears to be common ground that it was agreed that Ms Holgate would not perform her role, for a temporary period of time, while the Shareholder Departments' investigation was underway. Ms Holgate's claims regarding annual leave go instead to the manner or description of that period of inactivity and how she would be paid (i.e. annual leave or her normal full entitlements). Had Ms Holgate been on annual leave for the period between 22 October and 2 November 2020 (when she resigned), then the payment of accrued entitlements made on 10 November 2020 (see section 2.4.11 of the First Submission), which Ms Holgate has not contested, would have been correspondingly reduced to reflect the diminished annual leave balance.

#### **Release of public statement on 22 October 2020**

Ms Holgate claims (at page 42 of her submission dated 19 March 2021) that she was not consulted on the words of the Australia Post's public statement made on 22 October 2020 and was not informed prior to the statement being released to the media. The statement said:

*"The Australia Post Board and management team will fully cooperate with the recently announced investigation to be conducted by shareholder departments.*

*We remain committed to delivering for our important stakeholders – our people, our Post Office partners, our customers and the community.*

*Group CEO & Managing Director Christine Holgate will stand aside during the investigation. During this time, Rodney Boys, Chief Financial Officer will be acting in the role."*

Ms Holgate and her media adviser were provided with the public statement (**Appendix 7** to the First Submission) by email at 7:20pm on 22 October 2020 (see **Appendix 29**). This email, from Australia Post's General Manager, Corporate Affairs included the wording of a statement *"to be issued tonight to media"* and asked that Ms Holgate and her media adviser *"Please let me know if you have any issues"*.

This public statement plainly recorded that Ms Holgate would stand aside during the investigation. Ms Holgate and her media adviser did not provide any feedback or raise any concerns over wording of the public statement. The public statement was issued to the media at 7:40pm, after consulting Ms Holgate and her media adviser regarding the wording.

Ms Holgate also claims that this public statement has been withdrawn from the Australia Post website. This is also incorrect. The statement is still on the website and can be accessed via the following link <https://newsroom.auspost.com.au/article/statement-from-the-australia-post-chairman--lucio-di-bartolomeo>

#### **Emails sent by Ms Holgate on 23 October 2020 and 25 October 2020**

Ms Holgate's claims that she did not agree to stand aside are not supported by contemporaneous emails that were sent by her shortly after 22 October 2020.

- On 23 October 2020 at 6:26am, Ms Holgate sent an email (**Appendix 30**) to the Australia Post Executive Team that stated "*Rodney, thank you for agreeing to lead the team. I have deep respect for you all and hope together you remain strong to lead our ship through this*".
- On 25 October 2020 at 3:56pm, Ms Holgate sent a further email (**Appendix 31**) that stated "*As I step away from the organisation and let Rodney lead*".

These emails were tabled by Australia Post at the Inquiry hearing on 27 April 2021.

#### **Letter from the Chair dated 24 October 2020**

The Chair recorded the substance of the agreement with Ms Holgate in a letter dated 24 October 2020 (**Appendix 9** to the First Submission). That letter was provided to Ms Holgate by Ms Davies on 25 October 2020. It stated:

*"This letter confirms my recent discussions with you that you agreed to stand aside effective Thursday afternoon, pending the outcome of the Shareholder's investigation and any further action taken by Australia Post. As part of this arrangement:*

- *Your remuneration will continue and you will remain bound by all the terms and conditions of your employment with Australia Post.*
- *You will not be required to attend the workplace or carry out any of your ordinary work duties except if directed by me."*

#### **When did Ms Holgate first claim that she had not agreed to stand aside?**

Ms Holgate first claimed that she had not agreed to stand aside in a letter from her lawyers received by Australia Post on 27 October 2020 (**Appendix 13** to Ms Holgate's submission dated 19 March 2021).

This claim followed five days after 22 October 2020, when Australia Post says the agreement to stand aside was reached between Ms Holgate and the Chair (see section 2.1.7 of the First Submission). During that five day period, there were numerous statements and media reports referring to Ms Holgate standing aside (which can reasonably be expected to have come to Ms Holgate's attention). These included:

- a media release from Shareholder Ministers at 5:25pm on 22 October 2020 which stated “*The Chief Executive of Australia Post will be standing aside from her position for the duration of the investigation*” (see section 2.1.8 and **Appendix 4** to the First Submission);
- a public statement from Australia Post at 7:40pm on 22 October 2020 (after being provided to Ms Holgate and her media adviser at 7:20pm) which stated “*Group CEO & Managing Director Christine Holgate will stand aside during the investigation*” which was published after (see section 2.1.10 and **Appendix 7** to the First Submission);
- an email to Australia Post staff (including Ms Holgate) at 8:04pm on 22 October 2020 which stated “*Group CEO & Managing Director Christine Holgate will stand aside while this investigation is being conducted*” (see section 2.1.11 and **Appendix 8** to the First Submission);
- a letter from Australia Post to Ms Holgate (dated 24 and delivered 25 October 2020) which stated “*This letter confirms my recent discussions with you that you agreed to stand aside effective Thursday afternoon, pending the outcome of the Shareholder's investigation and any further action taken by Australia Post*” (see section 2.1.13 and **Appendix 9** to the First Submission);
- extensive media coverage referring to Ms Holgate standing aside from her role (examples of such reports can be provided if that would assist the Committee).

Further, as noted above, Ms Holgate herself sent communications in that five day period which acknowledged that she was not performing her role and contained no indication that she disputed the broadly communicated message that she was standing aside from her role during the investigation. Her email on 23 October 2020 thanked Mr Boys for “*agreeing to lead the team*” and her email on 25 October 2020 stated “*As I step away from the organisation and let Rodney lead*” (further details of both emails are provided above).

<b>4. Was Ms Holgate unlawfully stood down?</b>	
<b>Ms Holgate's position</b>	<b>Australia Post's position</b>
Ms Holgate's position is that she was stood down from her employment with Australia Post and that this stand down was unlawful.	Further to section 2.1 of the First Submission, Australia Post reiterates that Ms Holgate agreed with the Chair to stand aside from the role of GCEO&MD of Australia Post pending the outcome of the Shareholder Investigation and any further actions taken by Australia Post. She was not stood down from her role.
<b>Analysis of respective positions</b>	
<p><b>Ms Holgate agreed to stand aside, so no issue of standing down arises</b></p> <p>Further to the First Submission, Australia Post's position is summarised in its public statement dated 7 April 2021 (<b>Appendix 28</b>).</p> <p>Ms Holgate claims that she was unlawfully stood down. That is not correct.</p> <p>On 22 October 2020, Ms Holgate agreed with the Chair to stand aside from her role pending the outcome of the Shareholder Investigation and any further actions taken by Australia Post. The Board's intent was to ensure that both Ms Holgate and the organisation could focus their attentions on full cooperation with the investigation by the Shareholder Departments that had been announced earlier that day. The Chair's objective was, subject to the findings of the investigation, to have Ms Holgate back performing her role as soon as possible.</p> <p>The agreement for Ms Holgate to stand aside was reached between the Chair and Ms Holgate in telephone discussions late that afternoon, in breaks during a Board meeting that commenced at approximately 4.00pm. The Board did not stand down, or suspend, Ms Holgate from her role – that being an unnecessary consideration given her agreement to stand aside.</p> <p><b>Legal advice produced by Ms Holgate</b></p> <p>Ms Holgate has provided the Committee with a copy of legal advice obtained from Mr Ingmar Taylor SC.</p>	



The advice provided by Mr Taylor SC clearly outlines that there is a factual dispute as to whether Ms Holgate agreed to stand aside. The conclusion expressed in the advice is predicated on the assumption that Ms Holgate's position is correct and that she did not agree to stand aside from her role as GCEO&MD of Australia Post.

Australia Post's position is that Ms Holgate agreed to stand aside. In such circumstances the advice has no application.

While Ms Holgate now disputes that she agreed to stand aside, the timeline of events and communications do not support that Ms Holgate's claim that she was unlawfully stood down from her position with Australia Post.

5. Did Ms Holgate resign from her position with Australia Post and is she still an employee of Australia Post?	
Ms Holgate's position	Australia Post's position
Ms Holgate claims that she only offered to resign. She claims that this offer was not accepted by Australia Post and, as such, she claims that she is still employed by Australia Post.	Further to sections 2.4 and 2.6 of the First Submission, Australia Post reiterates that Ms Holgate's employment with Australia Post terminated on 2 November 2020 by virtue of her resignation.
Analysis of respective positions	
<p>The key evidence relevant to whether Ms Holgate is still an employee of Australia Post is analysed below.</p> <p><b>Summary of Australia Post's position</b></p> <p>Ms Holgate's resignation, as a unilateral act, was effective from the moment she delivered her resignation letter (<b>Appendix 10</b> to the First Submission). The resignation was also evidenced in Ms Holgate's subsequent public statement (<b>Appendix 11</b> to the First Submission). Australia Post confirmed the resignation in its letter to Ms Holgate (<b>Appendix 15</b> to the First Submission) and as a matter of prudence sought Ms Holgate's written confirmation that:</p> <p><i>"I, Christine Holgate, agree that my resignation will take effect immediately (today) and I will not receive a payment in lieu of notice or any other financial compensation from Australia Post."</i></p> <p>Ms Holgate's employment contract required that she give six months' written notice to Australia Post if she wished to resign. However, Ms Holgate wished to resign with immediate effect and without receiving any payment in lieu of notice or other financial compensation. The Board agreed to accommodate Ms Holgate's request.</p> <p>However, for Australia Post and Ms Holgate to comply with the employment contract as drafted, Ms Holgate would have had to continue in the employment for six months following her notice of resignation and either perform her role or serve the period without performing her duties.</p>	

Therefore, the prudent approach to respect the wishes of Ms Holgate was to formally vary the employment contract to formalise that Ms Holgate was resigning with immediate effect. The employment contract required that any variation be set out in a document signed by Ms Holgate. That is why on 2 November 2020, when accepting Ms Holgate's offer that her resignation would take effect immediately and without any payment in lieu of notice or other financial compensation, the Chair requested that Ms Holgate sign the letter to "*vary the contract of employment to give effect to this agreement*".

While Ms Holgate never signed this letter, her employment with Australia Post ended on 2 November 2020, in accordance with her resignation. Her contemporaneous public statement (**Appendix 11** to the First Submission) and communication with the Executive Team (**Appendix 12** to the First Submission) reiterate that outcome.

#### **Effect of Ms Holgate's letter of resignation**

Ms Holgate claims that her letter to the Board was only an offer to resign and that she did not say that she had resigned as she "*clearly had no legal agreement with Australia Post*" when she drafted it (for example, see Ms Holgate's submission dated 19 March 2021, at page 21).

The text of Ms Holgate's resignation letter makes it plain that Ms Holgate intended to end her employment. She requested that the termination take immediate effect and stated that she did not seek any financial compensation. While the letter requests a favourable response, it also clearly states that Ms Holgate would be releasing a media statement 2pm in any event. It is indisputable that Ms Holgate's resignation had the effect of terminating her employment with Australia Post.

#### **Claims that Australia Post should have checked that Ms Holgate really wanted to resign**

Ms Holgate claims that the Chair did not contact her on 2 November 2020 and questions "*why did the Chair not call me or make any effort to assess whether resigning was really what I wanted?*". However, as noted section 2.4.2 of the First Submission, the Chair sought (without success) to contact Ms Holgate during a break in the Board meeting on 2 November 2020, from 1:35pm to 2:45pm. The Chair's phone records (tabled at the Inquiry hearing on 27 April 2021) confirm show that he made the following calls to Ms Holgate's number.

Time	Duration	From	To
1:37pm	0:13	LDB	CH
1:45pm	0:33	LDB	CH

Implicit in Ms Holgate’s submissions and her evidence during the Inquiry hearing on 13 April 2021 is a claim that Australia Post should have checked to ensure that she really wanted to resign. Ms Holgate is a very experienced and very capable executive and non-executive director. Ms Holgate also had – at the time of her resignation – a team of experts advising and supporting her, including a barrister, a lawyer, and a media adviser. In her submission dated 19 March 2021, at page 21, Ms Holgate states that she “*sent the letter sitting in Max Kimber’s Chambers sitting with him, my lawyer Bryan Belling, Ross Thornton*”.

Ms Holgate’s resignation letter and attached public statement (which she said would be “*releasing at 2pm in any event*”) evidenced her resignation as an unequivocal and unilateral act, effective from the moment they were delivered (see section 2.4 and **Appendix 10** and **Appendix 11** to the First Submission).

This correspondence was part of a structured and comprehensive communication campaign executed by Ms Holgate and her advisers on the afternoon of 2 November 2020 including:

- at approximately 2:00pm, the release of the public statement that Ms Holgate enclosed with her letter of resignation (see section 2.4.3 and **Appendix 11** to the First Submission);
- at 2:10pm, an email to Australia Post staff (including Ms Davies and Ms Skehan), which stated “*With my deepest regrets*” and attached Ms Holgate’s public statement (**Appendix 32**);
- at 2:29pm, an email to Australia Post’s Executive Team which stated “*It is with great sadness; that today (sic) have informed the Chair and the Board of my resignation as Chief Executive of Australia Post with immediate effect. Attached is a copy of a statement that I have given this afternoon.*” and “*I have made the very difficult decision to resign, hoping the organisation can get fully focused on serving our customers.*” (see section 2.4.4 and **Appendix 12** to the First Submission); and
- at 3:00pm, an email to Australia Post, which requested that a message be sent on her behalf to Australia Post employees regarding her resignation (see section 2.4.10 and **Appendix 16** and **Appendix 17** to the First Submission).

**Chair's written response to Ms Holgate on 2 November 2020**

Ms Holgate claims (page 21 of her submission dated 19 March 2021) that the Chair's response to her letter of resignation (**Appendix 15** to the First Submission) required that Ms Holgate would be "*restricted to everything else in my contract*", "*could not make any future claim on the organisation*" and "*could have in effect be held to not working for 12 months with no pay*". This is not correct.

The Chair noted in Australia Post's public statement dated 7 April 2021 (**Appendix 28**):

*"Ms Holgate claims that I made a counter-offer which would have prevented her from working for 12 months without pay. That is not correct. The existing provisions of Ms Holgate's contract of employment contained non-compete provisions, as is common for such senior executive roles. These provisions apply only to working for a competitor for a period of six months from the end of Ms Holgate's employment – and therefore expire on 2 May 2021.*

*Regarding payment, Ms Holgate had already advised the Board and stated publicly that she was not seeking any financial compensation."*

The Chair's letter to Ms Holgate outlined that "*Australia Post accepts your offer that your resignation will take effect immediately (today) and you will not receive payment in lieu of notice or other financial compensation from Australia Post*". This was in accordance with the only conditions stipulated in Ms Holgate's letter of resignation.

Ms Holgate's employment contract required that she give six months' written notice to Australia Post if she wished to resign. Ms Holgate wished to resign with immediate effect and without receiving any payment in lieu of notice or other financial compensation and the Board agreed to accommodate this request. As a matter of prudence, Ms Holgate was asked to sign the letter to vary the contract of employment to reflect to this agreement.

Ms Holgate's employment contract also contained a restraint clause which would have prevented her from working for a competitor for a period of six months following the termination of her employment. Such a clause is standard for senior executive roles. Ms Holgate had not sought to be released from this restraint in her letter of resignation. The Chair's letter did not contain any requirement that Ms Holgate give a release in favour of Australia Post, nor did it seek to make any further variations to Ms Holgate's employment contract. It sought only to reflect the terms that Ms Holgate had requested.

Australia Post further notes that the Chair's letter was sent to Ms Holgate at 4:19pm. Following receipt of this letter, Ms Holgate or her lawyer did not contact the Chair or the Board to seek clarification of its effect, nor did she make any further attempt to "*resolve*" matters on that day. It remained open for Ms Holgate to do so.

While Ms Holgate never signed this letter, her employment with Australia Post ended on 2 November 2020, in accordance with her resignation.

### **Conduct of the parties after 2 November**

The conduct of Australia Post, Ms Holgate and her lawyer following 2 November 2020 is consistent with Ms Holgate's employment coming to an end on that day. In particular:

- Ms Holgate has not attended work or performed any functions of the role since resigning on 2 November 2020;
- Ms Holgate was paid her outstanding employment entitlements (including her accrued but untaken annual leave) on 10 November 2020 – based on a cessation date of 2 November 2020 (see section 2.4.11 and **Appendix 18** to the First Submission);
- Ms Holgate and her lawyer did not raise any questions about this payment; and
- at a meeting on 11 November 2020 (before Ms Holgate was to be interviewed by Maddocks for the Shareholder Departments' investigation), Ms Holgate's lawyer stated (in Ms Holgate's presence) to Australia Post's lawyer that "*Ms Holgate's employment contract is at an end, as we know*" and she is "*here voluntarily and not as an employee*" (see section 2.4.12 and **Appendix 19** to the First Submission).

Further, as announced on 10 May 2021, Ms Holgate has accepted a new role as CEO of Toll Global Express. This is consistent with Ms Holgate's employment with Australia Post having terminated.

### **Deed of release**

Ms Holgate claims that her employment remains on foot because she has not entered into a deed of release with Australia Post. This is not correct. Ms Holgate's employment was terminated by reason of her resignation on 2 November 2020. Termination of employment does not require entry into a deed of release in order to be effective.

6. Was Ms Holgate's letter of resignation leaked?	
Ms Holgate's position	Australia Post's position
Ms Holgate position is that her resignation statement was leaked to the media by the Australia Post Board.	Further to section 2.4 and 2.6 of the First Submission, Australia Post reiterates that Ms Holgate's employment with Australia Post terminated on 2 November 2020 by virtue of her resignation.  Ms Holgate has provided no evidence of a leak.
Analysis of respective positions	
<p>The key evidence relevant to determining the source who provided Ms Holgate's resignation statement provided to the media is analysed below.</p> <p><b>Ms Holgate claims that Sky News was reporting her resignation at 1:30pm</b></p> <p>Ms Holgate claims (at page 19 of her submission dated 19 March 2021) that, at 1:30pm, <i>"we were informed the statement had been leaked to the media by someone who had been watching Sky News. This leak must have stemmed from the Board."</i> Then (at page 20 of the transcript of the Inquiry hearing on 13 April 2021) Ms Holgate claims that on the afternoon of 2 November 2020, <i>"the only thing we got was a phone call to tell us that Sky News wanted to know whether the statement was real or not"</i>. She says that this occurred before she had released the statement <i>"Correct – at 1.30. You can google 'Sky News, 1.30, Christine Holgate, 22 October' and you will see the story run."</i></p> <p><b>Sky News Broadcast</b></p> <p>As stated in Australia Post's answer to a Question on Notice from the Inquiry hearing on 13 April 2021, the first mention in the media of Ms Holgate's potential resignation appears to have taken place at approximately 2:05pm on 2 November 2020, when Andrew Clennell identified on Sky News' television broadcast that he had heard speculation Ms Holgate would resign (see <a href="https://www.skynews.com.au/details/6206285295001">https://www.skynews.com.au/details/6206285295001</a>). While the linked video is not time-stamped, Australia Post has access to a copy from its media monitoring service that shows that the story began screening at 2:04pm (a screenshot of the Sky News screening is provided at <b>Appendix 33</b>).</p>	

While it is difficult to be definitive, the first mention in the media of the actual resignation announcement appears to have taken place at approximately 2:29pm on 2 November 2020, when ABC Business Reporter, David Taylor tweeted that Ms Holgate had resigned, quoting content from Ms Holgate's resignation statement (see <https://twitter.com/DaveTaylorNews/status/1323104808526475264>).

At 2:32pm on 2 November 2020, Sky News reported that Ms Holgate had resigned and read from her public statement.

#### **Timing of Ms Holgate releasing her statement**

Ms Holgate claims that “at 2:30pm after considerable media speculation... even though I had put a 2pm deadline in my letter” she “felt forced to admit that I had written to the Chair and the Board and offered to resign” (page 21 of Ms Holgate's submission dated 19 March 2021).

This is inconsistent with the following communications from Ms Holgate:

- at 2:10pm, an email to three Australia Post staff (including Ms Davies and Ms Skehan) in which Ms Holgate delivered her public statement “*With my deepest regrets*” (**Appendix 32**); and
- at 2:29pm, an email to Australia Post's Executive Team advising that she had already given a statement: “*It is with great sadness; that today (sic) have informed the Chair and the Board of my resignation as Chief Executive of Australia Post with immediate effect. Attached is a copy of a statement that I have given this afternoon.*” and “*I have made the very difficult decision to resign, hoping the organisation can get fully focused on serving our customers.*” (see section 2.4.4 and **Appendix 12** to the First Submission).

#### **Confirmation from Australia Post representatives**

In a response to a Question on Notice from the Inquiry hearing on 13 April 2021, Australia Post provided information regarding the receipt and handling of Ms Holgate's resignation letter and public statement (**Appendix 10** and **Appendix 11** to the First Submission). In summary:

- Ms Holgate's correspondence was received by the Board at 10:46am on 2 November 2020;
- it was forwarded by the Chair to Australia Post's General Counsel & Corporate Secretary at 11:45am that day;
- the General Counsel & Corporate Secretary then provided a copy of Ms Holgate's statement to Australia Post's Acting Group Chief Executive Officer & Managing Director and Executive General Manager Community & Consumer and a copy was also provided to Australia Post's General Manager Corporate Affairs; and



- this information was shared with these Australia Post executives, on a confidential basis, for the purposes of assisting the Board to consider and respond to Ms Holgate's correspondence.

Australia Post has asked all Australia Post representatives who had received this email whether they provided a copy of the statement to, or discussed its contents with, Sky News or any other media outlet or journalist prior to the resignation being in the public domain. All responded in the negative.

7. Did Australia Post seek to impose further post-employment conditions on Ms Holgate?	
Ms Holgate's position	Australia Post's position
Ms Holgate's position is that Australia Post was <i>"attempting to hold me to all restraints with no payment, which would in effect mean I would not be able to work for 12 months without pay, even though they had no signed agreement with me. This is grossly unreasonable."</i>	Australia Post's position is that it did not seek to impose further post-employment restrictions on Ms Holgate
Analysis of respective positions	
<p>The key evidence relevant to whether Australia Post sought to impose further post-employment conditions on Ms Holgate is analysed below.</p> <p><b>Correspondence of 2 November 2020</b></p> <p>Ms Holgate claims that the letter from the Chair on 2 November 2020 (<b>Appendix 15</b> to the First Submission) would have meant that she <i>"could have in effect be held to not working for 12 months with no pay, as the responsibilities of Australia Post are so broad including retail, financial services, logistics and services, they could have an argument that many organisations and industries competed with them"</i> (page 21 of Ms Holgate's submission dated 19 March 2021).</p> <p>The Chair noted in Australia Post's public statement dated 7 April 2021 (<b>Appendix 28</b>):</p> <p><i>"Ms Holgate claims that I made a counter-offer which would have prevented her from working for 12 months without pay. That is not correct. The existing provisions of Ms Holgate's contract of employment contained non-compete provisions, as is common for such senior executive roles. These provisions apply only to working for a competitor for a period of six months from the end of Ms Holgate's employment – and therefore expire on 2 May 2021.</i></p> <p><i>Regarding payment, Ms Holgate had already advised the Board and stated publicly that she was not seeking any financial compensation."</i></p>	

The pre-existing restraint clause in Ms Holgate's employment contract would have prevented her from working for a competitor for a period of six months following the termination of her employment. Ms Holgate had not sought to be released from this restraint in her letter of resignation. The Chair's letter did not seek to impose a further restraint on Ms Holgate for a period of 12 months. The letter sought to vary the contract to give effect to Ms Holgate's desire to resign with immediate effect and without receiving any payment in lieu of notice or other financial compensation.

#### **December correspondence between lawyers**

As is common following the termination of employment, particularly of a senior executive, the lawyers acting for Australia Post and Ms Holgate engaged in communications, seeking to finalise matters relating to Ms Holgate's employment. Ms Holgate claims (at page 6 of her submission dated 13 April 2021) that, through two letters dated 16 December 2020 (**Appendix 4** to that submission), Australia Post was "*trying to hold me to not working for 12 months with no pay*" and made an "*offer to waive my 6 months non-compete*" in return for a release.

Ms Holgate's submission does not accurately represent the context of the two letters on 16 December 2020:

- the letters were sent by Australia Post's lawyers in response to a letter from Ms Holgate's lawyer dated 8 December 2020 (**Appendix 34**) and a discussion between lawyers on 9 December 2020, during which Ms Holgate's lawyer advised that Ms Holgate sought to be released from the non-competition restraint in her employment contract;
- in the open letter, Australia Post's lawyers responded and rejected the assertion (by Ms Holgate's lawyer) that the post-employment restraints applying to Ms Holgate were unenforceable; and
- in the letter labelled "without prejudice" Australia Post attempted to accommodate Ms Holgate's request to be released from the non-competition restraint in her employment contract and finalise matters relating to Ms Holgate's employment (as is routinely done when employment related disputes are resolved).

8. Was Ms Holgate provided with adequate support following the events of 22 October 2020?	
Ms Holgate's position	Australia Post's position
Ms Holgate's position is that she was cut off from resources and was not provided with any genuine support from Australia Post.	Australia Post's position is that Ms Holgate's welfare remained a priority for Australia Post and Australia Post ensured the organisation continued to offer support during what clearly was a difficult time.
Analysis of respective positions	
<p>Ms Holgate claims that she was not offered any genuine support from Australia Post and that she was cut off from resources. This is not the case.</p> <p>Ms Holgate's welfare has remained a priority for Australia Post and Australia Post continued to offer support. As noted by the Chair in Australia Post's public statement dated 7 April 2021 (<b>Appendix 28</b>):</p> <p><i>"In recognition of the very unusual and difficult circumstances, the Board ensured that Ms Holgate was provided extensive and ongoing support from our most senior human resources executive, Sue Davies, Executive General Manager, People &amp; Culture. That confidential and regular support of Ms Holgate's wellbeing continued following Ms Holgate's resignation on 2 November 2020. In addition, Ms Davies ensured that Ms Holgate had access to extensive support from professionals through Australia Post's Employee Assistance Program."</i></p> <p>Australia Post acknowledges that this has been an exceptionally challenging time for the organisation and for Ms Holgate personally. In the days following 22 October 2020, Australia Post need to carefully manage its response to the Shareholder Investigation, including producing the large volumes of requested documents within incredibly short timeframes, carefully managing the integrity of evidence from various witnesses who might have been required, all while dealing with the intense media attention and contingency planning for the management of the organisation for the period that Ms Holgate had agreed to stand aside.</p> <p>In recognition of the very unusual and difficult circumstances, and in light of the considerations outlined above, the Board ensured that Ms Holgate was provided extensive and ongoing support, including:</p>	

- Ms Holgate was provided with extensive support from Australia Post’s most senior human resources executive, Sue Davies, Executive General Manager, People & Culture. Ms Davies ensured that Ms Holgate had access to extensive support from professionals through Australia Post’s Employee Assistance Program.
- Mr John Cox was nominated as Ms Holgate’s primary contact for any matters or queries related to the Shareholder Departments’ investigation. This was intended to ensure that Ms Holgate had certainty around her contact point for the investigation and was not overwhelmed by correspondence from multiple people regarding the investigation.
- Ms Holgate was never prevented from engaging in personal discussions with her colleagues to remain connected and feel supported. This was specifically stated in the letter from the Chair to Ms Holgate dated 24 October 2020 (**Appendix 9** to Australia Post’s submission dated 19 November 2020).
- As noted in Ms Holgate’s submission dated 19 March 2021 (page 45), the Chair tried to contact Ms Holgate via telephone on 25 October 2020 to check on her welfare. Ms Holgate did not answer this phone call and replied with a text message. In response, the Chair sent Ms Holgate a text message that stated *“Christine you have nothing to apologise for. I was calling to see how you are. I can’t envisage how difficult this is for you after all you have done for Aust. Post. Can we provide you with any assistance? Christine, just remember there are many of us who hold you in the highest regard and always will. Do what is best for you and call whenever you want. Lucio.”*
- Australia Posts’ support of Ms Holgate’s wellbeing (via Ms Davies) continued following Ms Holgate’s resignation on 2 November 2020.

9. Was Ms Holgate subjected to unreasonable information requests from Australia Post?	
Ms Holgate's position	Australia Post's position
Ms Holgate claims that she received continuous requests to examine credit card expense records and suggests that this was done to cause her harm.	Australia Post was obligated to disclose information regarding credit card transactions and other expenses, in response to Senate Estimates questions and Freedom of Information requests.
Analysis of respective positions	
<p>In her submission dated 19 March 2021 (for example at pages 4 and 31), Ms Holgate claims that Australia Post made unreasonable and continuous requests to examine credit card expense records and suggests that this was done to cause her harm. This is not correct.</p> <p>As further explained below, Australia Post was required under legislation to consult with Ms Holgate to ensure that it met its obligations under the <i>Freedom of Information Act 1982 (Cth) (FOI Act)</i>. Australia Post complied with all its obligations under the FOI Act with respect to the consultation process, and Ms Holgate was afforded all opportunities and assistance by Australia Post reasonably required to allow Ms Holgate to review and respond appropriately. Far from attempting to cause harm, Australia Post worked tirelessly with Ms Holgate during the consultation process to accommodate her requests and to mitigate concerns she raised.</p> <p>On 12 October 2020, Australia Post received a request under the FOI Act seeking credit card expense records and corresponding invoices for both credit cards in the name of Ms Holgate and in the name of the "Office of CEO" for the period between 1 October 2017 and 31 August 2020. Australia Post was of the view that these documents contained the personal information of Ms Holgate. Accordingly, it commenced the required consultation process to allow Ms Holgate to review the documents and provide her views on whether any information contained within the documents should be exempt from production as provided for under the FOI Act. Ms Holgate was not required to participate in the consultation process – and had legal representation to advise and assist her through the process.</p>	

**FOI Request (2021-00229): Credit Card Transaction Summaries (uploaded to Australia Post's Disclosure Log on 21 January 2021)**

Australia Post commenced the consultation process with Ms Holgate on 9 December 2020. As part of this process, Ms Holgate was provided an opportunity to review an Excel spreadsheet document that contained a summary of the transactions made on Australia Post credit cards in the name of "*Christine Holgate*" and the "*Office of the CEO*" for the period between 1 October 2017 and 31 August 2020.

Whilst the initial date for Ms Holgate to provide a response was 10 December 2020, Australia Post acknowledged the tight timeframe and noted that Ms Holgate was able to request an extension to this deadline, which she did not do. Australia Post continued to engage with Ms Holgate in an attempt to mitigate concerns raised by her, provided Ms Holgate with several further extensions, and finally concluded the consultation process on this document in late January 2021.

Whilst not obliged to do so, Australia Post agreed to produce a cover sheet with explanatory comments and duplicate expenditure documents that contained extensive commentary provided by Ms Holgate. This cover sheet and commentary were outside the scope of the FOI request and not a requirement under the FOI Act. Australia Post agreed to these inclusions in recognition of Ms Holgate's concerns and her on-going interest in the production of the documents.

Ms Holgate ultimately had six weeks to review and comment on the documents, was legally represented during this period, and Australia Post provided Ms Holgate's former Executive Assistant as a resource to assist Ms Holgate throughout the process.

**FOI Request (2021-00229): Invoices (uploaded to Australia Post's Disclosure Log on 1 March 2021)**

Australia Post commenced the consultation process with Ms Holgate on 20 January 2021. As part of this process, Ms Holgate was provided with an opportunity to review 58 invoices associated with certain transactions made on Australia Post credit cards in the name of "*Christine Holgate*" and the "*Office of the CEO*" for the period between 1 October 2017 and 31 August 2020. Ms Holgate was asked to provide a response by 25 January 2021.

Due to on-going consultation with Ms Holgate, Australia Post was required to seek several extensions from the FOI applicant, and finally concluded the consultation process on the invoices in late February 2021.

Whilst not obliged to do so, Australia Post agreed to produce a cover sheet with explanatory comments and amended invoices in relation to private car services (invoices OC42 to OC45) for charges that were subsequently paid for by Ms Holgate. The cover sheet and additional invoices were outside the scope of the FOI request and not a requirement under the FOI Act. Australia Post agreed to these inclusions in recognition of Ms Holgate's concerns and her on-going interest in the production of the documents.

Ms Holgate ultimately had five weeks to review and comment on the invoices, was legally represented during this period, and Australia Post provided Ms Holgate's former Executive Assistant as a resource to assist Ms Holgate throughout the process.

### **Summary**

Australia Post was required to consult with Ms Holgate with respect to the documents and information subject to the FOI request and did so in accordance with the requirements of the FOI Act. Australia Post worked proactively with Ms Holgate to mitigate her concerns, and voluntarily agreed to accommodate requests raised by Ms Holgate that exceeded any requirements of the FOI Act. Australia Post rejects any assertion that it acted in an unreasonable manner or to cause Ms Holgate harm. Rather, it expended considerable time and expense (corresponding with Ms Holgate's lawyers) in seeking to accommodate Ms Holgate's efforts to provide her explanations for the various expenses incurred on those credit cards.



10. Claims by CEPU & CSPU	
CEPU & CSPU claim	Australia Post's response
<p><b>Planned Job Losses</b></p> <p><i>"It is clear the government and the board of Australia Post intend to engage in so-called efficiencies that would lead to the loss of as many as 8,000 jobs, along with the closure of up to 230 suburban post offices, massive reductions in service-delivery standards and a fundamental shift in community-service obligations. It is now clear that this was to be the first step in breaking up Australia Post and selling parts of it to the private sector."</i></p>	<p>Incorrect.</p> <p>Australia Post is committed to growing its workforce. This requires losses in the letters business to be minimised, to ensure sufficient cash flow is available to invest and grow the organisation in the highly competitive parcels sector.</p> <p>The Federal Government and the Australia Post Board have repeatedly ruled out privatisation.</p> <p>Australia Post is committed to maintaining its workforce, meeting its community service obligations and Post Office network.</p>
<p><b>APC Act and Community service obligations</b></p> <p><i>"The union would like the committee to note that in our opinion that condition of the act is not currently being met."</i></p>	<p>Incorrect.</p> <p>As per the Auditor General's Report contained in the Australia Post Annual Report tabled in Parliament in 2020, all of the prescribed performance standards that underpin the community service obligations, were either met or exceeded for the year ended 30 June 2020, including maintaining 4,330 Post Offices and delivering 97.1 per cent of letters on time or early against the 94 per cent minimum.</p>

	That remains the case in financial year 2020-21 year-to-date, and full year outcomes will be confirmed in Australia Post's audited Annual Report to be tabled in Parliament in October 2021.
<b>ADM</b>  <i>"The ADM does not create any efficiencies. It simply attempts to separate the two functions, overburdening every worker participating in the model. In the end, the consumer suffers. Entire routes of letters, UMS and parcels are routinely withheld from delivery."</i>	<p>Incorrect.</p> <p>Australia Post has improved the service of parcel delivery, dealt with a significant surge in parcel volumes and is more efficient under the ADM.</p> <p>During COVID parcels have increased both in volume and size. Motorcycles would have been unable to carry this volume, size or weight. Vans carry more parcels and redeploying Posties from motorcycles to drive vans secure jobs and has enabled Australia Post to meet the emerging needs of the community. In addition, it has significantly improved the safety of staff through safer vehicles.</p> <p>At the same time as there has been significant digital substitution negatively impacting the Letters business an extra million customers started shopping online. The behavioural change in consumer shopping patterns brought about COVID will persist and Australia Post does not expect to go back to pre-COVID days.</p> <p>Delivery addresses are now only receiving on average a letter every 2-3 days. Under ADM, letter volumes being carried by each Postie is still below the volume the same Postie carried last decade.</p>

	<p>Letter delivery to non-metro areas (defined by the regulations) and delivery to Post Office Boxes are unaffected by ADM.</p> <p>Not only does the continued decline in letter volumes suggest that a return to everyday delivery is not required, nor are customers seeking this.</p> <p>Consumers recognise the demand for letters has been decreasing for some time – as their own demand for parcels has increased – and understand the need for reform.</p> <p>Put simply, Australians know they’re sending and receiving significantly less letters than they once were. They also know that they’re sending and receiving more parcels that they need now more than ever before.</p>
<p><b>ADM surveys conducted by CEPU</b></p> <p><i>“Our recent survey of postal workers working under the ADM found: 58 per cent of letter posties said they left letter based products behind at the delivery centre and brought them back when they remained undelivered for more than one business day; 50 per cent of posties said they left behind or brought back parcel products they were unable to deliver on their run on the day the parcel was due for delivery; 53.6 per cent of posties admitted to not adhering to all footpath and nature strip speed limits whilst performing the delivery function of their role, simply rushing around to try to get the job done; 86 per cent of posties said they were unable to complete their duties within their rostered hours, 34 per cent of whom said they considered the level of overtime required to complete their run to be unreasonable— we've had posties working 13- and</i></p>	<p>The independent Kantar survey data does not reflect this claim.</p> <p>The letter delivery service has been for many years been, and remains, subject to ongoing independent monitoring by Kantar Australia.</p> <p>Since October 2020 Australia Post has been achieving above the 94 per cent minimum and in recent months that has further improved to be above 97 per cent.</p> <p>Australia Post does not condone any safety or road rule breaches. This has been regularly communicated to Australia Post employees and the unions.</p> <p>As Minister Fletcher has clearly stated, the Morrison Government is fully committed to Australia Post remaining in government ownership.</p>

<p><i>14-hour days under the ADM; and 51 per cent admitted to not taking all their applicable breaks in order to complete their duties. This survey demonstrates that posties engaged in delivery under the ADM are being forced to work inefficiently and are concerned about the impacts this is having on their welfare and on service delivery to their communities.”</i></p> <p><i>“The CEPU has also recently conducted a survey of all Australia Post occupational groups, including posties, mail and parcel sorters, drivers, administration officers, corporate employees and post office workers, to ascertain their experience of current workplace practices and regulations. Of the survey participants, 94 per cent said the 2020 regulations had negatively impacted on the quality of service to the Australian public; 86 per cent said the changes given effect by the 2020 regulations had increased their workload; 67 per cent said the changes had caused them to cut corners to get the job done; and 88 per cent are seriously concerned that Australia Post may be privatised or broken up.”</i></p>	<p>There will be no change to Australia Post’s ownership, which will remain Government owned. (See joint media release, Minister Fletcher and Minister Cormann, June 2020).</p> <p>Australia Post Board members also refuted any suggestion of privatisation at the Inquiry hearing on 27 April 2021.</p>
<p><b>Delivery modes/vehicles</b></p> <p><i>“In a way, it's become unsafer with the electric vehicles here is such a struggle to deliver the volume; it's nearly impossible.”</i></p>	<p>Electric Delivery Vehicles (EDVs) are a safer mode of delivery than motorcycles. In FY20 motorcycles had 3.40 serious injury claims for every 100 motorcycle rounds, whereas EDVs had 0.49 serious injury claims for every 100 EDV rounds.</p> <p>ADM halves exposure to motorcycle accidents and provides a better service to customers by increasing the Postie's carrying capacity.</p>

	<p>While Posties can deliver some parcels, increasingly the parcels are too numerous and large for a bike or an EDV – particularly as Australians have settled into a new way of life at home, with products like office and exercise equipment becoming increasingly popular.</p>
<p><b>Independent Audit of Letter Deliveries</b></p> <p><i>“At the moment, Australia Post are failing the service delivery standards. They will say they are meeting their service delivery standards, under the regulation, at around 94 to 97 per cent.”</i></p>	<p>Australia Post’s letters service is independently monitored by Kantar. The process undertaken to measure on time performance is subject to audit activity, monthly by Deloitte and annually by Ernst and Young on behalf of the ANAO. The process is heavily audited and scrutinised.</p> <p>Australia Post takes allegations of fraud, interference and the like extremely seriously, and maintains a robust fraud management framework to assist in the prevention, detection and management of fraud across the Australia Post Group. Australia Post is not presently aware of any specific concerns being raised involving the conduct alleged by the union but would appreciate the opportunity to understand any specific concerns raised so that they can be fully investigated.</p>
<p><b>Regional classification</b></p> <p><i>“Australia Post used a 1991 document to rezone the regional areas into the metropolitan areas.”</i></p>	<p>Australia Post has no discretion in how it applies metro/rural/remote classification.</p> <p>The claim that Australia Post rezoned or reclassified regional areas as metro areas is incorrect.</p> <p>Australia Post has no ability to classify or zone areas as metro, rural or remote for the purposes of service provision.</p>

	<p>Classifications are imposed from the performance standard regulations that Australia Post is obliged to satisfy – see the definition of ‘areas classification’ in the <i>Australian Postal Corporation (Prescribed Performance Standards) Regulations 2019</i>.</p> <p>That definition obligations classification via the publication titled “Rural, Remote and Metropolitan Areas Classification 1991 Census Edition”, prepared by the Department of Primary Industries and Energy and the Department of Human Services and Health in November 1994 (based on 1991 Census data).</p>
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11. Claims by AMWU & PVCAA	
Claim	Australia Post's response
<p><b>Unaddressed Mail Service volumes</b></p> <p><i>"I know there have been instances where some of the political mail that has gone out and is supposed to be delivered by a certain date hasn't been—and that's in the metro areas. At the state election before the previous one, we know that there was a whole week's worth of distribution that didn't go out."</i></p>	<p>Australia Post is committed to providing an Unaddressed Mail Service (UMS) to business, government, Members of Parliament and political parties.</p> <p>UMS is not a reserved service and traditionally has supplemented letter volumes and been at considerably discounted price to the Basic Postage Rate. With the decline in (reserved) addressed letters, the UMS now represents over 20 per cent of all letter volumes and runs at a considerable loss to Australia Post.</p> <p>Australia Post takes community and customer feedback seriously and always try to alleviate the concerns of stakeholders. While COVID has accelerated the growth of eCommerce, Australia Post understands that its letter delivery services, including UMS, remain a critical community service.</p> <p>During the period of ADM Australia Post has supported elections in Victorian local government, Queensland State election, WA State election and Tasmanian State Election and all have been managed successfully with positive feedback from the relevant electoral commission.</p>

	<p>Our Government Sales and Service and Product teams work closely with the Federal and State Electoral Commissions, Political Parties, and our Government &amp; Regulatory Affairs teams work with individual Members of Parliament at all levels of Government to ensure integrity and accuracy in the delivery and receipt of election information and postal votes.</p>
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12. Claims by CWU, Postal and Telecommunications Branch, Victoria	
Claim	Australia Post's response
<p><b>ADM</b></p> <p><i>"There is a myth that traditional posties did not deliver parcels prior to COVID-19. This claim is false and we respectfully put to you that anyone who makes this claim is either misinformed or is seeking to misinform. Evidence from Australia Post to the Senate in 2018 clearly stated at that time that posties carried 45 per cent of total parcel volumes and this was growing."</i></p>	<p>While Posties can deliver some parcels, increasingly the parcels are too large for a bike or an EDV – particularly as Australians have settled into a new way of life at home, with products like office and exercise equipment becoming increasingly popular.</p> <p>In FY19, before the composition of the size and weight of parcels changed due to evolving consumer shopping changes as a result of COVID, posties were able to deliver an average of 41.5 per cent of parcels.</p> <p>Larger delivery vehicles are now required due to increased volumes and the composition changes to parcels.</p>
<p><b>Memorandum of Understanding</b></p> <p><i>"I guess when the MOU was put on the table, from Victoria, from the onset we said that we do not agree to the MOU, the main reason being that Australia Post was trying to rush this through."</i></p>	<p>The sudden and unexpected onset of COVID did require urgent changes. Australia Post does not underestimate the impact this had on its employees and has and continues to work with them and unions to make changes as they are identified.</p> <p>On 9 July 2020, after various negotiations with the CEPU, Australia Post executed a Memorandum of Understanding (MoU) with the CEPU deferring bargaining until 2021 and CEPU providing their support for the temporary regulatory relief.</p>

	<p>The MoU protects employee conditions under EBA2017 to help manage the ongoing uncertainty caused by the COVID pandemic – providing security to more than 33,000 postal employees.</p> <p>No posties, or other employees directly impacted by this change, will be made involuntarily redundant during the period of the MoU, which expires on 9 August 2021.</p> <p>There is also a commitment there will be no protected or unprotected industrial action during the period of the agreement.</p>
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# **APPENDIX 28**

## Media Statement

07 April 2021

Australia Post Chair Lucio Di Bartolomeo issued a statement on Wednesday 7 April 2021 in relation to statements attributed in media reports to former Australia Post Group Chief Executive Officer and Managing Director Christine Holgate.

The following comments may be attributed to Australia Post Chair Lucio Di Bartolomeo:

During her time at Australia Post, Christine Holgate made a significant contribution to the organisation. Ms Holgate was a very good chief executive. While embracing important innovations and reforms under her leadership to transform our operations, Australia Post has reported significant growth and continued to strengthen the business.

In recent times we have faced some of the biggest challenges in our 200-year history - including unprecedented demand for parcel deliveries and the accelerating decline of the letters business in the midst of the COVID-19 pandemic – but Australia Post continued to deliver a profit that can be reinvested in our business for the benefit of the Australian community.

Despite the tough operating environment, Australia Post remains a robust business and I acknowledge Ms Holgate's strong leadership in contributing to this outcome. While the Board understood the reasoning, we were saddened and disappointed when Ms Holgate resigned on 2 November 2020. Ms Holgate's welfare has remained a priority for Australia Post and we have ensured the organisation continues to offer support during what clearly is a difficult time.

Notwithstanding our ongoing offers of support, it is important to correct some of the points attributed to Ms Holgate in recent media reporting.

### **Support provided to Ms Holgate**

In recognition of the very unusual and difficult circumstances, the Board ensured that Ms Holgate was provided extensive and ongoing support from our most senior human resources executive, Sue Davies, Executive General Manager, People & Culture. That confidential and regular support of Ms Holgate's wellbeing continued following Ms Holgate's resignation on 2 November 2020. In addition, Ms Davies ensured that Ms Holgate had access to extensive support from professionals through Australia Post's Employee Assistance Program.

### **Ms Holgate agreed to stand aside**

Ms Holgate claims that she was unlawfully stood down. That is not correct.

On 22 October 2020, Ms Holgate agreed with me to stand aside from her role pending the outcome of the Shareholder Departments' investigation and any further actions taken by Australia Post. The Board's intent was to ensure that both Ms Holgate and the organisation could focus their

attentions on full cooperation with the investigation by the Shareholder Departments that had been announced earlier that day. My objective was, subject to the findings of the investigation, to have Ms Holgate back performing her role as soon as possible.

The agreement for Ms Holgate to stand aside was reached between myself and Ms Holgate in telephone discussions late that afternoon, in breaks during a Board meeting that commenced at approximately 4.00pm. The Board did not stand down, or suspend, Ms Holgate from her role – that being an unnecessary consideration given her agreement to stand aside.

### **Conversations with Ms Holgate on 22 October 2020**

Ms Holgate claims that she did not speak with me that afternoon at all after Question Time (the relevant parts of which occurred between approximately 2.30pm and 2.40pm). However, phone records support my recollection – including that we had conversations at 4:27pm and 5.50pm on that day.

### **Ms Holgate resigned**

Ms Holgate wrote to Australia Post at 10.46am on 2 November 2020 advising her resignation with immediate effect and that she would not be seeking financial compensation and attaching a public statement that she said that she would release at 2.00pm. We understand that Ms Holgate then released the statement at 2.00pm and subsequently advised the Australia Post Executive Team at 2.29pm that she had done so. Australia Post did not issue a public statement until 3.00pm, after Ms Holgate had issued her public statement.

The Board acknowledged Ms Holgate's resignation and agreed to waive the six-month notice period that would otherwise apply. While our correspondence sought Ms Holgate's written confirmation that she would not receive payment in lieu of notice or other financial compensation, neither that confirmation nor a deed of release was necessary. Ms Holgate's employment came to an end on her resignation.

### **Post-employment conditions**

Ms Holgate claims that I made a counter-offer which would have prevented her from working for 12 months without pay. That is not correct. The existing provisions of Ms Holgate's contract of employment contained non-compete provisions, as is common for such senior executive roles. These provisions apply only to working for a competitor for a period of six months from the end of Ms Holgate's employment – and therefore expire on 2 May 2021.

Regarding payment, Ms Holgate had already advised the Board and stated publicly that she was not seeking any financial compensation.

### **Credit card records**

Ms Holgate claims that she received continuous requests to examine credit card expense records and suggests that this was done to cause her harm. She also claims there were leaks of misleading reports regarding the management of expenses.

This is not correct. Australia Post was obligated to disclose information regarding credit card transactions and other expenses, in response to Senate Committee questions and Freedom of Information requests.

### **Senate Inquiry**

Given the extensive media reporting, I felt it was important to clarify these points at the earliest opportunity.

Australia Post has lodged a detailed submission for the purposes of the Senate Inquiry and is considering whether to make a further submission. We look forward to responding to enquiries from the Senate Committee at the hearing scheduled on 13 April 2021.

At all times, Australia Post has worked constructively with Ms Holgate during what has undoubtedly been a difficult process for everyone involved. Australia Post is a better and stronger organisation thanks to her contribution, and we sincerely wish her all the best in her future endeavours.

**-ENDS-**

# **APPENDIX 29**

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Thursday, 22 October, 2020 7:20 PM  
**To:** Holgate, Christine; Ross Thornton  
**Subject:** Statement from Australia Post Chair

Christine, Ross

Lucio has just approved the below message to be issued tonight to media:

**Statement from the Australia Post Chairman, Lucio Di Bartolomeo**

The Australia Post Board and management team will fully cooperate with the recently announced investigation to be conducted by shareholder departments.

We remain committed to delivering for our important stakeholders – our people, our Post Office partners, our customers and the community.

Group CEO & Managing Director CEO Christine Holgate will stand aside during the investigation. During this time, Rodney Boys, Chief Financial Officer will be acting in the role.

Please let me know if you have any issues.

[REDACTED]



# **APPENDIX 30**

**From:** [Holgate, Christine](#)  
**To:** [Davies, Sue \(EGM People & Culture\)](#); [Macdonald, Nick](#); [Sheffield, Nicole](#); [Boys, Rodney](#); [Starr, Gary](#); [Bohlken, Ingo](#); [Cox, John](#); [Barnes, Rod](#);  
**Subject:** Thank you  
**Date:** Friday, 23 October, 2020 6:26:43 AM  
**Attachments:** [image001.png](#)

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Dear Team,

First, my sincere apologies to you all to have to go through this.

Rodney, thank you for agreeing to lead the team.

I have deep respect for you all and hope together you remain strong to lead our ship through this.

Thank you for all the messages of support.

Stay strong, stay safe!

Christine

**Christine Holgate**

Chief Executive Officer & Managing Director  
Australia Post

[Redacted signature line]

[Redacted line]

[Redacted line]

[Redacted line]



# **APPENDIX 31**

**From:** [Holgate, Christine](#)  
**To:**  
**Cc:** [Boys, Rodney](#)  
**Subject:** Payment of Paramount charges  
**Date:** Sunday, 25 October, 2020 3:56:55 PM

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I asked Paramount to go back into the AP account with them and check since this year began any trip which involved any journey to and from where we lived from Jan through Covid. I know that you booked them all within our policy and going back and to the office, airport or places of work, and they have been approved by Rodney, but I do not want you or Rodney criticised in any way. The total amount for the 10 months was \$15948.98 This has been paid so you will need to ensure a credit is given to the organisation. As I step away from the organisation and let Rodney lead, if there is anything at all I owe or I need to clarify please can you let me know. I can't think there could be but please double check all records.

Christine

Christine Holgate

# **APPENDIX 32**

**From:** [Holgate, Christine](#)  
**To:** [REDACTED] [Davies, Sue \(EGM People & Culture\);](#) [REDACTED]  
**Subject:** Statemment  
**Date:** Monday, 02 November, 2020 2:10:22 PM  
**Attachments:** [CHRISTINE HOLGATE OFFERS RESIGNATION STATEMENT.pdf](#)

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With my deepest regrets.

Christine

Christine Holgate

## **CHRISTINE HOLGATE OFFERS RESIGNATION AS CEO OF AUSTRALIA POST**

I have offered today the Chairman and Board of Australia Post, with great sadness, my resignation as Chief Executive with immediate effect. I am not seeking any financial compensation.

As Christmas approaches it is critically important that Australia Post is absolutely focussed on supporting our customers and communities. We have prepared significantly for this peak, but we still face significant challenges - keeping our people safe, managing the biggest ecommerce Christmas ever and planning in the face of unpredictable seasonal weather. I firmly believe the 'ship' needs a strong captain at the helm to help navigate through this time. The current issue I am managing is a significant distraction and I do not believe it is good for either Australia Post or my own personal wellbeing. Consequently, I have made the difficult decision to resign, hoping it will allow the organisation to fully focus on serving our customers.

I have had the privilege to lead Australia Post for three years, and I am so proud of what we have achieved together over this time.

Our recent financial results delivered a record revenue of \$7.5bn, up \$500m or 7% and our profits before tax rose 30% to \$53.6m for the year. This was our highest ever revenue growth in a year without acquiring a major asset. Our business transformation accelerated, we kept our people safe, we invested whilst avoiding a loss, unlike many of our international peers. Enabling almost 2000 Posties to deliver parcels in vans created an opportunity for their roles to be sustainable and to serve our country better. Our strong parcel, services and international cross-border ecommerce businesses, all helped compensate for having 400m fewer letters, covered \$242m in letter losses and we still delivered a profit.

Australia Post's first quarter revenues of over \$2bn are up 15%; domestic parcels added \$338m and pleasingly our post office revenues grew 19%. Putting this in perspective, Australia Post delivered more growth in parcel revenues in the first quarter than for the whole of 2018. Since COVID began Australia Post has delivered 300 million parcels, with parcels now representing over 67% of our business, whilst facilitating 82% of Australia's ecommerce, adding a further \$4.2bn in economic contribution to our country. The COVID crisis has changed the retail landscape of Australia forever and I am immensely proud of the significant role Australia Post has played in making this happen.

I have always sought to recognise and thank the efforts of our 80,000 strong extended team, as together they are the real heroes behind our results. Philosophically, I believe if you want to drive positive change, you need to thank and reward positive behaviours.

However, I deeply regret that a decision made two years ago, which was supported by the Chair, to recognise the outstanding work of four employees has caused so much debate and distraction and I appreciate the optics of the gifts involved do not pass the "pub test" for many.

I still believe firmly that the people who achieved the Bank@Post outcome for Australia Post deserved recognition, their work secured a \$220m investment over the following years, which dramatically improved the financial performance of the company, protected a critical community service which more than 50% of the communities in Australia depend on and made our Community Post Offices sustainable for the long term.

I will make myself readily available to participate in the investigation of this matter and any other issues of possible concern.

I have no animosity towards the Government and have enjoyed working with the Prime Minister, the Shareholder Ministers and many other political leaders during my tenure.

I am deeply appreciative of the significant support I have received from our people, our customers, our partners – especially our Community Licensed Post Offices and individuals across the country. I have made this difficult decision to leave to enable Australia Post to be able to fully focus on delivering for our customers.

My sincere apologies if my words or actions have offended others as this would never have been my intention because I have always held Australia Post in the greatest regard.

Australia Post is growing and now has a strong viable future where our Community Post Offices can flourish, our Posties and delivery teams maintain their roles, communities secure ongoing services and one which can support the economic recovery of our country.

Christine Holgate.



# **APPENDIX 33**



# **APPENDIX 34**

**Belling Legal**

Dear [REDACTED]

8<sup>th</sup> December 2020

**Christine Holgate – Australia Post.**

I acknowledge your letter received on Friday 4<sup>th</sup> December 2020.

**Senate Estimates.**

The Senate Estimates Committee has been misled and Ms Holgate has afforded Australia Post the opportunity to correct the misinformation.

It is now 4 weeks since Australia Post gave evidence to the Senate and there are clear factual inaccuracies in that evidence, in consequence the Parliament remains misled. That situation should be corrected.

**Ms Holgate's Employment.**

The High Court of Australia has drawn the distinction between employment and the contract of employment.

Ms Holgate's employment was rendered untenable by the actions (and indeed, the inactions) of The Chairman of Australia Post, including that the Chairman had announced publicly that Ms Holgate had agreed to stand down, when there was no such agreement.

On 2<sup>nd</sup> November 2020, after a series of communications, Ms Holgate offered to resign with immediate effect, if there was an agreement that day; Australia Post failed to meet her offer.

Australia Post admitted on the 9<sup>th</sup> November 2020, when giving evidence at Senate Estimates, that it had not signed any agreement with Ms Holgate.

Ms Holgate received a letter on November 10<sup>h</sup> 2020 stating what her statutory entitlements were and it was requested she signed the letter and returned it. There was reference to aggregated figures, but no proper explanation how these were calculated. The Contract of Employment, assuming its efficacy, is subject to certain restraints. The effect of the offer proposed by Australia Post was, if Ms Holgate had signed, she would be held to all the terms of the contract and neither be released or paid. The offer also held Ms Holgate from making any future claim on Australia Post.

Ms Holgate has given no release.

Ms Holgate believes it is in the interest of both parties to resolve the way forward and come to terms with respect of this matter, as soon as possible; particularly as you are actively recruiting for her successor. We request a response before 10<sup>th</sup> December 2020.

The purported restrictions on Ms Holgate's ability to work, which absent payment as contractually contemplated, would constitute an unreasonable restraint of her trade lead to:

- Payment in consideration for restraining her competition; or
- A release from those restraints which restrict her ability to earn a living.

We look forward to hearing from you.

Regards

[REDACTED]

**Principal**

**Belling Legal**

[REDACTED]