

Joint Committee of Public Accounts and Audit

Parliamentary inquiry – Issuing of a Certificate under section 37 of the
Auditor-General's Act 1997 - Inquiry based on Auditor-General's Report No. 6
(2018-19)

ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - Issuing a Certificate PMV-L Hawkei Auditor General Report No. 6 Hearing
- 19 Oct 18 - Q2 - Identification of National Security Concerns Prior to Release of Report -
Hill

Question reference number: 2

Senator: Dean Smith

Type of question: Spoken

Date set by the committee for the return of answer: 5 November 2018

Question:

Mr HILL: The conspiracy theory view that has been touched on in the media is that this not to do with national security, not to do with defence and not to do with international relations. You hadn't raised these concerns or escalated them before Thales asserted a commercial interest. I understand, and I'm not arguing the toss, that there was that option available to the executive to protect the commercial interests of a company. That is in the legislation. But any suggestion that it's been cloaked in national security to cover that action is appalling from the point of view of the parliament and sets an absolutely unsustainable precedent.

Mr Divall: Defence provided advice to ministers on concerns in relation to the draft report. Those concerns are outlined in the letter that ministers have provided to the Attorney-General. I'd need to take on notice the specifics around that particular date and what was still outstanding at that particular date.

Mr HILL: The Auditor-General's understanding as advised—I didn't make a note of the words—was that there were no outstanding national security or defence concerns.

Mr Divall: I'd need to take that on notice to check from our side of things. I can't confirm nor deny at this point in time; I'd need to take that on notice to go back and check the records.

Answer:

When did Defence provide advice to Ministers on concerns relating to the draft report?

The Attorney-General requested that the then Minister for Defence and the then Minister for Defence Industry, provide information which would be relevant to his decision-making process regarding the ANAO audit on 19 February 2018. The Ministers sought advice from Defence on 20 February 2018. Defence provided its advice to the Ministers on 16 March 2018.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - Issuing a Certificate PMV-L Hawkei Auditor General Report No. 6 Hearing
- 19 Oct 18 - Q3 - Similarities between DOTE Report and Auditor General Report - Patrick

Question reference number: 3

Senator: Rex Patrick

Type of question: Spoken

Date set by the committee for the return of answer: 5 November 2018

Question:

Senator PATRICK: The report of the competing vehicle makes some claims. I will table this, with leave of the committee. This is available on the web. For example, it says:

The combat payload is expected to exceed 3,500 for the HGC and CCWC mission packages, which will result in the rear axle of the JLTV to be overloaded.

There are a number of statements in this particular DOTE report that one would imagine would cause harm commercially but that the Director of Operational Test and Evaluation nonetheless reports to Congress. With the agreement of the committee, if I were to table this particular report, could each of the departments make a comment—without revealing the nature of the unfair prejudice that might be in the information we haven't seen—on how that compares to the sorts of remarks that have been made in this particular report so that we can get a feeling for this. You might say, 'It's actually totally irrelevant,' or you might say that they are the similar sorts of adverse remarks that were going to be published by, for example, the Auditor. I'd like to table that and ask each of the departments to take that on notice.

Mr Divall: What specifically is the question?

Senator PATRICK: There's been a claim of adverse or unfair prejudice in respect of the remarks that were removed from the Auditor-General's report or that he was directed to remove by way of the section 37 certificate. I'm tabling a report that provides—

Mr Divall: I understand that report, yes.

Senator PATRICK: very uncomfortable remarks about the competing vehicle. I'm trying to get an understanding of whether or not we're talking about similar sorts of remarks being covered by the section 37 certificate.

Ms Mellor: Senator Patrick, we could not go there—

Senator PATRICK: I'm not asking you to reveal the information, just to give an opinion as to whether it's similar or totally different.

Mr Hehir: I think what the Deputy Auditor-General is saying goes to one of my first

remarks—that is, the advice that I've got is that I shouldn't even go to the point of speculating about anything, otherwise I could be in breach of the act. It would be incredibly difficult for us to do even that.

Senator PATRICK: All right. Perhaps the other two departments, then?

Mr Anderson: I'll flag, Senator, that I think it will be difficult for us to do, but for public interest reasons.

Senator PATRICK: Okay.

Mr Divall: I think it might be difficult as well. We are happy to take it on notice and provide that.

Answer:

The Department of Defence has considered and it would not be appropriate to comment.