

Joint Committee on Corporations and Financial Services

QUESTION ON NOTICE Date of hearing: 1 March 2023

Outcome: Workplace Relations

Department of Employment and Workplace Relations Question No. IQ23-000017

Senator Paul Scarr on 01 March 2023, Proof Hansard page 44

Ovato Group Case

Question

Senator SCARR: Did the department actually appear before the court? Did the relevant legal entity that represents FEG actually appear before courts and make submissions with respect to the scheme of arrangement?

Mr Carr: We didn't, We did look, as a department, closely at that option. We could see that there was an opportunity for us to appear. Most likely, that would have been to inform the court about the FEG program and the risks that a scheme could represent to the safety-net policy underpinnings of the scheme. We briefed our then minister and the Attorney to seek his view on that option, and it was determined that we would not pursue that option. So we didn't appear, as it panned out.

Senator SCARR: What were the reasons for not appearing? I don't want to take you into places where it's difficult for you to go, as members of the department, but I am interested to know what were the considerations in terms of making that determination as to whether or not to appear? Because on the face of it I would have thought a judge would be extremely interested in what the view of the department was.

Ms Mathews: We might need to take that one on notice. The long and short of it is that it was a decision by the then minister. We would need to take on notice whether or not there's anything more that we could provide in relation to the reasons why.

Answer

The then Attorney-General and Minister for Industrial Relations, the Hon Christian Porter MP, decided that the Commonwealth should not seek to intervene in scheme approval proceedings before the New South Wales Supreme Court. The reasons for this decision to not intervene are a matter for the then Attorney-General and Minister for Industrial Relations.