

CHAPTER THREE

CONCLUSIONS AND RECOMMENDATIONS

3.1 Specific problems were identified in respect of the satellite pay TV and MDS tendering processes by Professor Pearce and in the reports by Mr Hutchinson and Ms Goode. The problems were regarded as significant deficiencies in the Department's operation and procedures.

3.2 In the satellite and MDS tender processes a number of the specific problems which were identified had combined to adversely affect both tender processes. Senator Collins drew an analogy with an aircraft disaster. "An aircraft disaster is very rarely caused because of one significant failure. The reason that you rarely have an airline disaster is that it is a collection of a whole series of failures" (Hansard, 6 August 1993, p.291).

3.3 The impact upon the Department of these problems has been referred to in paragraph 2.3. The remedial and preventative measures the Department has taken to rectify these problems have sought to address all aspects of its management. The action taken by the Department as outlined in the submissions and described to the Committee addresses the problems identified by Professor Pearce.

3.4 In determining the action to be taken, the Department undertook consultation with and sought assistance from a wide range of sources. These included Professor Pearce and other external consultants, the Departments of the Prime Minister and Cabinet, Attorney-General's and Finance, the Public Service Commission and the Australian National Audit Office.

3.5 The effectiveness of the action which has been taken can only be judged over a period of time. Early evaluation of some aspects, such as the legal awareness training programs, indicate that initially they have had a positive outcome. The real impact of such training will only become evident in the future. The Committee notes

the importance of the evaluation and review mechanisms which have been put in place. These mechanisms are intended to ensure that the Department adheres to the measures which have been implemented and that the beneficial effect they have on the attitude and work practices of the staff persist.

3.6 Valuable lessons have been learnt from these events. It is expected that the actions subsequently undertaken will result in a more efficiently administered Department with a heightened understanding of its role and responsibilities in operating in an environment of constantly evolving technologies and policy change.

3.7 Mr Evans advised the Committee:

I think we have gone further than a lot of other parts of the Public Service now have in regard to issues such as how documents are kept, how Ministers are notified of statutory obligations, what sorts of records are kept of meetings, how they are cleared, what the working relationship is with the Attorney-General's Department, and so on.

I say this quite honestly: while going through all of this has been a pretty traumatic experience for us, I actually think the department will be significantly better run (Hansard, 6 August 1993, p.245).

3.8 The Committee was concerned to learn of the non-existence or limited availability within the public service of guidelines or of information relating to important aspects of public administration. This was particularly so in addressing the problem areas identified by Professor Pearce. The Committee is of the opinion that the various guidelines, instructions and seminar and workshop programs which have now been developed by the Department in conjunction with other agencies provide a valuable resource for service-wide use to improve public administration generally. These have been included as appendixes to this report. The guidelines relating to the creation by officers of records concerning decision making processes are particularly useful. Similarly, the format and content of the legal awareness seminars and workshops

which address the lack of understanding of the differences between legal and administrative cultures referred to by Professor Pearce are a positive development.

3.9 Mr Evans indicated to the Committee that this material has been or will be provided to the Management Advisory Board and is available for use by other areas of the public service. The Management Advisory Board has the responsibility for developing policy guidelines for the public service and advising the government on significant issues on the management of the Australian Public Service. Mr Evans believes that benefits will also flow from the Department's action in terms of the management of particular aspects within the public service.

3.10 The Committee supports the provision of this material to the Management Advisory Board for inclusion in guidelines to cover the entire public service and to the Public Service Commission which coordinated the legal awareness seminars and is responsible for various staff development issues within the public service. The Committee believes that this material would serve a useful purpose if it was made available to and promoted within all sectors of the public service.

3.11 The Committee notes Mr Evans' comments that he has been 'proselytising his peers and colleagues' about the Department's particular experience and the wisdom of Commonwealth departments operating in more competitive structures having a much greater regard for, a much higher level of skills in and a much better understanding of where to access a wide range of commercial and legal advice (Hansard, 15 November 1993, p.425).

3.12 An integral part of the responsibility and accountability considered in the Committee's First Report was the need to take action to rectify the identified deficiencies in administration and process and ensure that systems were fixed to prevent their recurrence.

3.13 The Committee believes that in these terms the Minister has properly discharged his responsibilities through the action he and the Department have taken to rectify the problems identified in the reports by Professor Pearce.

3.14 The Department has made a considerable effort to address the problems directly affecting it. The matters specifically referred to in the terms of reference have been addressed in Chapter 2. The Committee believes that the action taken in respect of each matter has been adequate. However, the Committee notes that the draft guidelines developed for tendering arrangements for price-based licensing allocations will not be finalised until the completion of the satellite and MDS tendering processes. With the timetable for the completion of these tendering processes still uncertain and given the Department's indication that they do not anticipate changing them greatly, the Committee believes that the completion of these guidelines should be expedited. Any revision which may be required following the completion of the tendering processes could be made at that time.

3.15 The Committee is of the view that a single day seminar may not provide staff with a sufficient understanding of administrative and commercial law. The extent of the lack of appreciation of legal issues within the Department was identified by Professor Pearce. The requirement that attendance at the seminars was mandatory for staff at ASO4 level and above indicates the seriousness with which the problem was regarded by the Department. Whilst the objective of sensitising staff to a greater awareness appears to have had success in the short term, the Committee believes that it is important that this initial action is built upon through ongoing and more intensive legal training, particularly for senior officers. The Committee notes that the evaluation of the effectiveness of this training as part of the Departmental Evaluation Plan will play an important role in monitoring any future shortcomings in staff awareness of their statutory obligations and administrative responsibilities.

Recommendations

The Committee recommends -

1. That the Department of Transport and Communications continue legal awareness training for its staff through the conduct of seminars and workshops on a regular basis. In conducting this training the Department should make provision for more intensive legal training for staff at the ASO4 and above levels, and particularly for the Senior and SES officer levels.

2. The Department of Transport and Communications expedite the finalisation of the Guidelines for Price - Based Allocation Processes and revise these if necessary when the satellite and MDS tendering processes are finalised.

3. That the Management Advisory Board and Public Service Commission be made aware of the guidelines and seminar programs developed to meet the problems identified by Professor Pearce. These bodies should consider the application of this material for service wide use.

Senator Barney Cooney
Chairman

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