

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2014 - 2015

Department/Agency: Australian Securities and Investment Commission

Question: BET 332 - 345

Topic: - Media Relations

Reference: written - 15 June 2015

Senator: Dastyari, Sam

Question:

At a Parliamentary Joint Committee hearing in February, Greg Medcraft explained that the “practice of sending media releases to external entities has been that, with a negotiated outcome – and only with a negotiated outcome such as an Enforceable Undertaking –ASIC will generally provide the party with our media release shortly ahead of publication.” ASIC regards this as an “appropriate courtesy”

- 332. Why would ASIC send a press release to an entity being investigated?
- 333. Is it a formal policy to send press releases to an entity being investigated?

NewsCorp journalist Ben Butler made a FOI request on 23 February for ‘documents relating to the development of (12) press releases’ and was sent a bill for \$4000?

- 334. Where are these documents?
- 335. What will happen if Mr Butler declines the request to pay \$4000?
- 336. How many staff hours were spent on this request?
- 337. Can ASIC please provide these documents to Senate Economics Committee?

ASIC has overhauled its website since this committee published its report into the regulators performance in June 2014; of particular note, the ‘ASIC responds’ section of the website is now noticeably less defensive.

- 338. What has changed internally?
- 339. Do you have new staff in your media relations team?
- 340. Does ASIC have a problem with journalists?
- 341. Is ASIC now cooperating more, by providing more information, with its critics in the media?
- 342. Are there any issues that ASIC feels receive undue the media coverage? Why?
- 343. Do ASIC commissioners meet regularly with journalists? How often?
- 344. Do ASIC commissioners meet informally with business journalists?
- 345. Do you have a formal or informal program for developing relationships with business and finance journalists? Why/why not?

Answer:

- 332. The hearing was the Parliamentary Joint Committee oversight hearing on 20 March 2015. The relevant passage from the ASIC's Chairman's testimony is set out below.

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"Only with negotiated outcomes such as an enforceable undertaking do we generally provide parties with our media release shortly ahead of publication. I emphasise that this is done separately from the negotiation of the resolution and after negotiations have completely concluded. So we consider that it is an appropriate courtesy in circumstances where, 1), an entity has agreed to resolve the matter; 2), they have chosen to cooperate rather than contest issues; and, 3), they have committed to steps that ASIC considers necessary.

It actually has practical benefits. For example, entities have the opportunity to correct factual errors. It also provides updated figures—for example on compensation paid or customers impacted. It is also important that the ASIC releases are absolutely accurate, particularly when they involve market-sensitive matters. So we are reviewing our policy on reviewing media releases to external parties mainly because there have been inconsistencies around two issues. One is whether all entities have been provided with media releases before we release them in these circumstances. Two is timing—that is, how long before the publication entities are given the release. So our updated policy—because we are a learning organisation—that is currently being documented will be that generally media releases are provided to all entities involved in negotiated outcomes and they will get the release 24 hours before publication."

Under ASIC's approach, as outlined by the Chairman, at the time the copy of the media release is provided, negotiations to resolve the matter have been concluded and thus the entity is not being investigated. The release is provided on the 3 conditions noted by the Chairman. It is provided for information and as matter of courtesy. Provision of a copy of the release also has the practical benefits noted by the Chairman.

333. ASIC does not have a policy to send press releases to an entity being investigated. ASIC does have the policy set out in the Chairman's testimony. It is an internal policy. ASIC intends to publicise the policy in an updated version of our Information Sheet 152 *Public Comment on ASIC's activities*, which we expect to release shortly.
334. The documents are held by ASIC. The FOI request relates to five different regulatory actions over a period a period of approximately nine years. Responding to the FOI request has required the deployment of considerable resources. Processing charges have been levied by ASIC in the amount of \$4380 in accordance with the FOI Act and FOI Fees (Charges) Regulations
335. Mr Butler has declined to pay the FOI charges. Mr Butler has applied to the Australian Information Commissioner for a review of ASIC's charges. That application is currently under consideration by the AIC.
336. To date, we estimate in excess of 270 hours.

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337. In reviewing the Government guidelines for official witnesses before Parliamentary Committees and related matters, potentially to provide these documents to the Senate Economics Committee ASIC is required to make a public interest immunity (**PII**) claim and this will be needed to be presented to the Assistant Treasurer .
338. ASIC is continually updating and changing its website and the ASIC Responds section was one section that was refined.
339. ASIC's Media Relations team has remained steady in terms of staff numbers at 2.6 FTE. A member of the Media Unit left ASIC in November 2014 and that person was replaced in January 2015.
340. ASIC has an excellent relationship with journalists.
341. Under chairman Greg Medcraft, ASIC has had a more expansive program of media engagement. We recognise the benefit of working with the media to get our message out to the people we regulate and by doing that, shaping the behaviour of our regulated population.
342. ASIC touches the lives of most Australians and as such, the media are always interested in what we are doing. Some areas we regulate are of more interest to the media than others but we work with all media on their ASIC inquiries.
343. ASIC Commissioners and its Senior Executive Leaders meet regularly with the media.
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