

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates

2016 - 2017

**Department/Agency: Treasury**

**Question: BET254-265**

**Topic: Kidman sale**

**Reference: Written - 5 May 2016**

**Senator: Chris Ketter**

**Question:**

"254. Why did the Treasurer commission an independent review of the Kidman sale process by Professor Graeme Samuel?

255. What issues was Professor Samuel asked to examine.

256. The Treasurer's media release of 29 April 2016 refers to the independent review examining market integrity issues around the Kidman sale process. What market integrity issues were examined? Why did the Treasurer come to the view that there were market integrity issues that needed to be examined? Why was Treasury or FIRB not able to provide the Treasurer with advice on market integrity issues? Why did the Treasurer want external and independent advice rather than advice from Treasury/FIRB?

257. Who engaged Professor Graeme Samuel to conduct the review?

258. Was there a contract?

259. When did the services commence and conclude?

260. Was there a tender process for engaging a reviewer?

261. How was Professor Samuel selected to conduct the review?

262. How much was Professor Samuel paid?

263. Why was the Treasurer's decision announced 29 April 2016 a "preliminary view"?

264. When is a final decision required to be made?

265. Can the final decision differ from the "preliminary view"?"

**Answer:**

**[Questions 254-256]**

The Treasurer announced an independent, external review of the sale and tender process in relation to the sale of Kidman on 20 April 2016. Mr Graeme Samuel AC was commissioned to undertake the review, which reported to the Treasurer on 28 April 2016.

The Treasurer announced in his media release of 29 April 2016 that the review examined market integrity issues around the Kidman sale process, including whether the competitive bid process offered fair opportunity to Australian bidders to participate.

**[Questions 257-262]**

The Treasurer announced on 20 April 2016 that Mr Graeme Samuel AC had been commissioned to undertake the review. The contract start date was Friday 22 April 2016 and the end date was Friday 6 May 2016. The total contract price was \$9,680 (GST inclusive). Mr Graeme Samuel AC was selected to undertake the review based on his skills and experience, particularly his experience as former Chairman of the Australian Competition and Consumer Commission.

**[Question 263]**

The Treasurer announced on 29 April 2016 that he had formed the preliminary view that the acquisition by Dakang Australia Holdings Pty Ltd (Dakang) of 80 per cent of the issued capital in S. Kidman & Co Limited (Kidman) was contrary to the national interest. Dakang was advised prior to the Treasurer's announcement and provided with a natural justice period in which to respond.

**[Question 264]**

A final decision would have been required to be made by the statutory deadline of 25 July 2016, otherwise powers to prohibit the acquisition or impose conditions would have expired.

Dakang decided to withdraw its application and advised the Foreign Investment Review Board on 3 May 2016.

**[Question 265]**

Yes. A natural justice period is provided to an applicant prior to a final decision being made. The natural justice period provides a reasonable opportunity for an applicant to respond to a proposed decision and provide any other information.