

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio (ACCC)

Budget Estimates, 22 June 2009

Question: bet 178

Topic: Criminal Prosecution of Richard Pratt

Hansard Page: E25

Senator Joyce asked:

Senator JOYCE—In that case, did the ACCC provide the DPP with all the required documents for a criminal prosecution of Richard Pratt?

Mr Cassidy—The DPP, in making his decision to pursue the criminal prosecution, was provided by us with a brief, which is normal process. That brief outlined the case and had all relevant evidentiary material attached to it. On the basis of that brief, the DPP made his own independent decision to pursue the criminal prosecution against Mr Pratt. I could not say that brief had every single piece of documentation attached to it, because that is not the nature of the brief; what it has attached to it is the relevant evidentiary material.

Senator JOYCE—My process of inquiry is not that you have a job to break up cartels and deal with that— I have no problem with that—but whether there was a fair and comparable process within that. Did the ACCC not provide the DPP with a certificate of disclosure, as required under the guidelines between agencies?

Mr Cassidy—I am not aware that we failed to provide the DPP with any relevant material.

Senator JOYCE—So you did provide a certificate of disclosure?

Mr Pearson—As I recall, at the time I was executive general manager, but Mr Alexander, who was our general counsel, was responsible. As far as I recall, he did, but I would have to double-check. As general counsel for the commission he was in charge of that.

Senator JOYCE—On FOI discussions it looks like we did not get that certificate.

Mr Pearson—I would have to double-check that.

Senator JOYCE—Prior to the commencement of the criminal prosecution of Richard Pratt what were the estimated legal costs of the prosecution of Richard Pratt?

Mr Cassidy—I do not recall that an estimate was actually made. I should explain that the criminal prosecution was a matter for the DPP. Our own legal costs in relation to the criminal prosecution—

Senator JOYCE—That is my next question.

Mr Cassidy—I do not have a precise figure, but I am happy to take it on notice. I think it was in the order of half a million dollars for us, but that was purely advice that we received in relation to legal professional privilege issues in responding to the various court subpoenas. The bulk of the cost of the prosecution itself was borne by

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the Director of Public Prosecutions, and I do not know what those costs were. That would be a matter for the DPP.

Senator JOYCE—You will either take the action costs on notice or they are not available to you?

Mr Cassidy—That is right. I can certainly take on notice what our costs were, but all I am saying to you is that our costs were peripheral and really were only related to advice we obtained from counsel in what was a fairly comprehensive subpoena process.

Answer:

Senator Joyce asked whether the ACCC had provided the Commonwealth Director of Public Prosecutions with a certificate of disclosure, as required under the guidelines between agencies?

No Certificate of Disclosure was signed by the ACCC or provided to the Commonwealth Director of Public Prosecutions (CDPP). The disclosure requirements in a prosecution are ongoing. In the course of the prosecution proceedings against Mr Richard Pratt a large quantity of documents were disclosed to the Defence and the Defence raised a large number of new issues on a regular basis. The continual broadening of matters raised by the Defence required further searches and provision of ACCC documents.

Throughout the proceedings, the ACCC was in regular contact with the CDPP as to the provision of relevant documents pursuant to its disclosure obligations. In light of the continued broadening of matters raised by the Defence, the ACCC deferred signing the Certificate of Disclosure until it was confident that all documents relevant to the matters before the Court had been disclosed. The prosecution was discontinued before the ACCC reached the stage where the Certificate could be signed.

Senator Joyce asked the ACCC to advise of the quantum of its legal costs associated with the proceedings against Richard Pratt.

As at 14 July 2009 the ACCC has expended approximately \$704,000 in legal costs associated with this matter, which includes costs associated with responding to subpoenas and other issues raised by the defence.