

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

19 – 20 October 2011

Question No: SBT 819

Topic: ASIC funding – staff redundancies and efficiency

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Senator Cormann asked:

Senator CORMANN: You seem to be avoiding the question, Mr Medcraft. Have you been provided with advice that those redundancies in the deterrence team were not genuine redundancies under the Fair Work Act, because, and I quote: 'The restructure did not result in any efficiencies and there had been no downturn in deterrence work'?

Mr Medcraft: Not to my knowledge, but I am happy to take that on notice as to whether we have had some advice to that effect. I am not aware of it, but I will take it on notice. As I said, I believe that the restructure was executed in good faith. It was done for efficiency reasons. In reference to my earlier comments to Senator Williams, in running ASIC it is about trying to use the resources most efficiently with what you have to get the outcomes you are looking to achieve.

Senator CORMANN: Sure. Have you been provided with advice that these redundancies of deterrence staff would have a significant effect on ASIC's ability to fulfil your deterrence role into 2012 and that it would lead to a decrease in public confidence in the regulator?

Mr Medcraft: I will take that on notice.

Answer:

Q. Were the redundancies done under the Fair Work Act?

The redundancies were undertaken in accordance with cl 13.3 of the ASIC Executive Level Enterprise agreement 2010-2011, cl 49 of the ASIC 1-4 Level Enterprise Agreement 2010-2011 and the Excess Staff Policy. ASIC's workforce adjustment process is set out in the Enterprise Agreements, which provides:

- a definition as to when employees will be regarded as excess;
- consultation arrangements;

The process outlined in the Enterprise Agreements is consistent with the requirements of the *Fair Work Act 2009*.

Q. Did you get advice that they weren't genuine redundancies, because the efficiencies weren't genuine?

During the consultation process staff were invited to provide feedback and suggestions in relation to the proposed restructure, and were advised all their comments would be considered in the course of making final decisions about the restructure process.

Feedback from a staff member suggested that there have been no relevant changes in the operational requirements of ASIC and that a reduction in the number of deterrence staff will reduce ASIC's deterrence capability.

In the feedback document from the staff member there were some misapprehension about the understanding of genuine redundancies and application of the Ulan Coal Mines Limited vs Howarth case, which the staff member had referred.

ASIC responded to staff regarding this feedback as part of the consultation process.

Q. Have you been provided with advice that these redundancies of deterrence staff would have a significant impact on ASIC's ability to fulfil 2012 deterrence role, and that it would leave to a decrease in public confidence in the regulator?

ASIC was not provided with any advice that indicated as a result of redundancies and restructure that we would not be able to fulfil our deterrence role, nor that this would lead to a decrease in public confidence in ASIC as a regulator. The Commission and Senior Executives assessed the operational requirements of the deterrence role and obligations for 2012 before the subsequent restructure.