

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Additional Estimates 2010-2011**

Agency - Australian Building and Construction Commission

DEEWR Question No.EW0703_11

Senator Abetz provided in writing.

Question

Refers to previous QoN [EW0464_11](#)

INTRANET VIDEO

Following on from the ABCC's response to QoN EW0464_11

1. Which external production company produced the video?
2. Can a transcript be provided of the video?

Answer

The Office of the Australian Building and Construction Commissioner has provided the following response:

1. Milkshake Communications Pty Ltd.
2. A transcript is provided at **Attachment A**.

ATTACHMENT A

Good morning. I'm Leigh Johns and as you know, I took up my appointment as the new Australian Building and Construction Commissioner yesterday.

Many of you will remember me from the 7 months I spent at the agency last year and into early this year as the Deputy Commissioner.

I feel honoured and excited to be back and I look forward to working with you in the coming years.

The position of Commissioner is one that I pursued through the very thorough, open, merit based, selection process conducted to fill this appointment.

I wanted to be here at this agency, at this time, to lead it in its important work. The public value delivered by all of you is critical to the Australian economy and to the employment of nearly 1 million of your fellow Australians.

You should feel very proud of the ABCC's achievements to date. And, like me, I hope you are energised by its continuing potential.

As Commissioner, I am determined that the ABCC evolve into a 'full service regulator' in the building and construction industry.

We know what we're facing

In determining what we have to do, it is first necessary to understand the environment in which we operate.

I've already made mention of the important part the ABCC plays in delivering public value.

You will come to hear me talk a lot about public value and our obligation as public servants to continue to expand on the public value that we deliver.

We operate in, and seek to regulate, a commercial sector that continues to require cultural reform.

We see this in the activities of the ABCC, including the 40 current matters under investigation and 37 matters before the courts

There continues to be a need for:

- a recognition of the rule of law;
- a recognition of freedom of association and a repudiation of coercion;
- control of building sites by head contractors and major subcontractors; and
- an attitudinal change to safety.

In pursuing this agenda of cultural change, the ABCC at times operates in climate of opposition to our regulatory intervention.

As you would know, there is currently a bill before the Parliament to abolish the ABCC.

Whilst the bill is sponsored by the Greens, the two major parties are committed to retaining a regulatory force in the building and construction industry.

Therefore, as servants of the Australian people we must continue to focus on the job we have to do.

I am confident in the future of the ABCC. I would not be here otherwise.

We know what we have to do

We will continue to be a tough 'cop on the beat'. And we must do that in a way that is open, transparent and respectful of the community we are tasked to regulate.

Accordingly, I will today be distributing to the SES management team a draft ABCC Litigation Policy for consultation within the agency over the coming week. I invite you all to engage with the draft and to provide me with your comments. Once settled the policy will become a public document on our website as you would expect from a best practice regulator.

In terms of our section 52 powers, which are often the focus of public discourse, consistent with the findings of former Justice Wilcox last year, I continue to see a need to use them in circumstances where:

- we have commenced an investigation;
- where there are reasonable grounds to believe that a particular person has information or documents relevant to that investigation;
- where it is likely to be important to the progress of the investigation that this information or evidence be obtained; and
- where it is reasonable to require the attendance, having regard to the nature and likely seriousness of the suspected contravention, any alternative method of obtaining the information, evidence or documents and the likely impact on the person being required to do so.

However, there is one important change I plan to make in this regard. As Commissioner, I will preside over section 52 examinations (except for the two that Deputy Commissioner Dalglish has already made plans to conduct later this week).

Our mantra must be 'fair and productive' building and construction work.

Productive in the sense that we must seek to eliminate unlawful industrial action and barriers to participation like de facto 'no ticket, no start' or mandated industrial arrangements.

Fair in the sense that we must promote harmonious, equitable practices on site, and tackle issues including sham contracting and underpayment of building workers.

In this latter regard, yesterday I wrote to the Fair Work Ombudsman, Nicholas Wilson, and terminated the long standing practice which has seen the ABCC refer claims of under-payments to the FWO.

As a full service regulator in the building and construction industry, if workers come to

us seeking assistance because they have been under-paid, we will help them.

As a citizen centric agency, we won't be turning away any participant in the building and construction industry.

This decision is entirely consistent with the recommendations of Royal Commissioner Terence Cole who said:

"it will be vital to the success of the ABCC for it to emphasise that its services are available equally to all groups involved in the industry..."

Of course our move into this sphere of regulation will require an investment in learning and development. To this end I met with Judy Dans yesterday and asked her to commence that process.

There have in the past been some fears that the ABCC's Inspectorate could not do this work or that it would distract the agency from 'more important' work.

Those fears are unfounded.

Knowing quite a bit about this type of work, and about the skills and intelligence of our staff, I have every confidence in the Inspectorate's ability to fulfil this important role.

The second fear fails to recognise that the number of matters the ABCC has referred to the FWO are relatively small and can be accommodated within the existing work load of the ABCC.

This agency has consistently under-spent monies it could have invested in additional regulatory work, such as under-payment claims and sham contracting. As a result of having under spent revenue from Government, the Commission currently has in excess of \$31m in retained surpluses.

Accordingly, I will be seeking permission from the Government to put those resources to work in the service of our aim of a fair and productive industry and, yesterday, asked John Casey our CFO to commence that course of action.

We're in this together

Staff in the operations side of the business who were here when I was Deputy Commissioner will remember that one of my first activities was to:

- survey the staff about their views;
- discuss the findings with the management team;
- report back to staff on our action plan; and
- commence a process of implementation.

I am deeply committed to employee consultation and engagement. Accordingly, having already commenced this process with the SES management team and I will be continuing it with all staff.

We are in this together and I value not just your productive contribution, but also the contribution of your ideas for improvement.

I am also cognisant of the fact that the ABCC enterprise agreement has expired and

we need to ensure that proper industrial arrangements are in place for our own staff.

Accordingly, yesterday I asked Judy Dans to commence a process for the negotiation of a new EA. In doing so, I invited her to consider how the terms and conditions of the ABCC staff can be more closely aligned with those of the FWO.

At our core, both agencies are labour inspectorates and I am confident that there are opportunities for fruitful collaboration and alignment between the two.

We can do this

Let me take this opportunity to thank you all for your hard work to date. I know that our role has not been easy, nor do I expect it to be easy in the future.

However, with a single minded focus on fair and productive building and construction work, I am confident that our efforts as a full service regulator will see us increase the public value that we deliver to the Australian community.

Ultimately, our goal is to affect the long term reform agenda necessary in the building and construction industry.

Together, with our strong foundation, committed people and a shared vision of the future, we can do this.

I look forward to working with you all.