

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Finance and Administration Portfolio

Department of Finance and Administration

Additional Budget Estimates Hearings – 14 February 2006

Question: F4

Outcome 2 – Improved and More Efficient Government Operations,

Output 2.1.1 – Government Business Enterprises Ownership and Divestment

Topic: Telstra

Hansard Page: F&PA 20

Senator Sherry asked:

Has consideration been given to the option if more than 36 per cent of the shares are transferred to the Future Fund—current ownership is 51—of what I think is called a section 9 declaration in respect of technical ownership of Telstra? Is it possible for that still to be exercised by the Commonwealth through the Future Fund?

If 36 per cent or more of the shares of Telstra are in the Future Fund, who is the owner under that provision?

Senator Sherry subsequently advised that he was referring to section 9 of the *Telstra Corporation Act 1991*.

Answer:

Section 9 of the *Telstra Corporation Act 1991* (the Telstra Act) provides that the Minister for Communications, Information Technology and the Arts may give the Telstra Board certain directions in the public interest. This section does not contain any provisions relating to declarations in relation to ownership of Telstra.

Under the *Telstra (Transition to Full Private Ownership) Act 2005* (the Sale Act), section 9 of the Telstra Act will be repealed on the "85% sale day" (see Part 3 of Schedule 1 to the Sale Act).

Subsection 4(1) of the Sale Act provides that if, in the Minister's opinion, a particular day is the first day on which a person other than the Commonwealth holds 85 per cent of the voting shares in Telstra, then the Minister must declare that day to be the 85% sale day for Telstra.

Subsection 4(3) provides that for the specific purpose of determining whether the 85% sale day for Telstra has occurred, any Telstra shares held by the Future Fund (the Fund) are taken to be held by someone other than the Commonwealth.

On that basis, if 36.8 per cent (or more) of voting shares in Telstra were transferred to the Fund (out of the Government's current 51.8 per cent holding) then 85 per cent (or more) of shares in the company would be held by persons other than the Commonwealth, requiring declaration of the 85% sale day.

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As provided for under the Fund's enabling legislation, any Telstra shares transferred into the Fund will be legally owned by the Future Fund Board of Guardians but will be beneficially owned by the Commonwealth of Australia.