

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
ADDITIONAL BUDGET ESTIMATES 2012-2013

Finance and Deregulation Portfolio

Department/Agency: Department of Finance and Deregulation

Outcome/Program: 1/1.1

Topic: CSIRO

Senator: Ryan

Question reference number: F5

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Number of pages: 2

Question:

Senator RYAN: Senator Wong, I have a question relating to something I understand you might have to take on notice. It is an issue from several years ago, just after you became the minister. Is it true that you were sent a letter in September 2010 alleging systematic commercial fraud and criminal activity within the CSIRO? And is it true you responded to these allegations by establishing a formal department of finance investigation into them?

Mr Tune: I cannot recall. I will definitely have to take it on notice.

Answer:

A former CSIRO employee wrote to me on 16 September 2010 alleging that the Commonwealth Scientific and Industrial Research Organisation (CSIRO) had breached several Commonwealth Laws.

The CSIRO employee alleged that between 2005 and 2007 CSIRO had breached the *Commonwealth Authorities and Companies Act 1997* (CAC Act), for which I am responsible, the *Corporations Act 2001* (Corporations Act) and the *Occupational Health and Safety Act 1991* (OH&S Act) when the CSIRO employee was managing a joint-venture research project with a private sector company.

Specifically, the CSIRO employee alleged:

- breach of director's duties under the Corporations Act by a CSIRO-nominated director of Datatrace DNA Pty Ltd by the director continually acting in the best interests of CSIRO and to the detriment of Datatrace;
- CSIRO management not supporting external investment in his technologies was a breach of their CAC Act duties to act in the best interest of CSIRO;
- bullying and harassment that constituted a breach of the OH&S Act following the lodgement of a whistleblower complaint;

- that CSIRO board and senior management, in not addressing complaints when raised, breached their general duties under the CAC Act; and
- that the manner in which he was made redundant despite possible positions in CSIRO being available was also a breach of their duties under the CAC Act.

On 30 November 2010 I responded to the CSIRO employee advising him that my Department would investigate his claims regarding potential contraventions of the CAC Act. A copy of this letter was also copied to the Minister responsible for CSIRO, the Hon Kim Carr, the then Minister for Innovation, Industry, Science and Research.

I also advised the CSIRO employee that my Department would refer the Corporations Act matter to the Australian Securities and Investments Commission (ASIC), as the regulator of the Corporations Act, and the OH&S Act matter to Comcare, as the regulator of the OH&S Act.

On 31 January 2011, Comcare advised that this matter had been previously reviewed in early 2009, but it would review the information provided to determine if there is any new information that may impact on the original finding. In a letter to my Department, Comcare committed to contact the CSIRO employee to discuss any issue that arose from that subsequent review.

On 8 March 2011, following a review of the information provided by the CSIRO employee, ASIC advised that it did not propose to investigate the matter further. ASIC considered that when commercial arrangements give rise to private disputes, such disputes are best resolved by the parties concerned.

I am advised that the CSIRO employee has been in regular contact with my Department from this time on, but my Department has not been able to identify any evidence of the criminal breaches of the CAC Act as alleged by the CSIRO employee.

Further, I am also advised that at no stage were the separate issues related to the sale of technology to Novartis, as referred to in recent media articles, raised with my Department.