

Standing Committee on Finance and Public Administration

ANSWER TO QUESTION ON NOTICE

Budget Estimates Hearing – May 2010

Finance and Deregulation Portfolio

Outcome 1, Program 1.2

Topic: Kevin Harkins – Copy of DPP legal advice

Question reference number: F68

Type of Question: Hansard F&PA 61, 27 May 2010

Date set by the committee for the return of answer: 9 July 2010

Number of Pages: 1

Senator Barnett asked:

That the Committee be provided with a copy of the advice from the Director of Public Prosecutions (DPP) in relation to whether the evidence from the *7.30 Report* disclosed a prima facie breach of section 326 of the *Commonwealth Electoral Act 1918* (Electoral Act).

Answer:

Advice was circulated from the Department of the Prime Minister and Cabinet in May 2008 indicating the position on the disclosure of legal advice to Senate Estimates Committees. That advice indicated that the Government will not generally disclose the content of legal advice. It is open to the Government to disclose the content of legal advice where it considers that it is in the public interest to do so. In deciding whether it is appropriate to release the content of legal advice, a Minister will balance the public interest in disclosure with the protection of the Commonwealth's legal interests.

In the present case it is noted that the Senate has been provided with a copy of a letter from the Australian Electoral Commission to Senator Barnett which sets out in detail the evaluation of the current available material and the offence in section 326 of the Electoral Act. It is further noted that Senator Barnett (F&PA 64) has indicated that further material may be obtained on this matter which would again need to be considered by the AEC and possibly the DPP in due course.

Accordingly, given the above, the AEC is of the view that there is no additional public interest that would be served in providing the Committee with a copy of the DPP advice.