

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN GOVERNMENT SOLICITOR

Question No. 19

Senators Boyce and Barnett asked the following question at the hearing on 25 May 2011:

Senator BOYCE: Mr Govey, has the AGS been asked to provide legal advice in relation to the plain packaging of cigarettes?

Mr Govey: I will not be able to say very much about that, primarily because it will be a matter for the client agency, which I think in this case would be the department of health.

Senator BOYCE: So the answer is: yes, you have been asked for advice?

Mr Govey: I would expect that we have been involved in relation to that matter, yes. Again, that is as much as I know.

Senator BOYCE: So, yes, you have been asked for advice?

Mr Govey: I understand so.

...

Senator BOYCE: You would not be able to tell us what the advice was, but you can tell us, surely, the details around whether you were asked for it, when you are asked for it, if you have supplied it yet or not.

Mr Govey: In the ordinary course, even those questions are a matter for the client agency rather than for us as the solicitor.

...

Senator BOYCE: Could you take on notice my question about when the advice was provided and see if you are able to answer that?

Mr Govey: We will take that up with the health department.

Senator BOYCE: Thank you.

...

Senator BARNETT: You have answered Senator Boyce's question with regard to taking that on notice. Can you provide the dates when you were instructed and the dates when you provided the advice—is that something you are able to do?

Mr Govey: I will take that on notice. We will take that up with the health department.

Senator BARNETT: That would be useful.

The answer to the honourable senators' question is as follows:

Following consultation with its client, the Department of Health and Ageing (DHA), AGS is able to advise that, since becoming a government business enterprise in 1999, it has provided advice to DHA (and its predecessors) concerning plain packaging of cigarettes on 5 January 2001 (instructions 30 November 2000), 26 August 2008 (instructions 11 July 2008), and 19 January 2009 (instructions 8 December 2008). In addition, following a request from DHA on 9 March 2010, AGS gave DHA advice on this issue in draft form on 27 April 2010, and subsequently expanded the draft advice on various occasions, including by the addition of a contribution from the Attorney-General's Department of 17 December 2010, and provided a final version to DHA on 5 July 2011.