



12/11552-04

4 February 2013

Ms Julie Dennett
Committee Secretary
Senate Standing Committee on
Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 2600

Dear Ms Dennett

Clarification of evidence

I write concerning evidence provided by officers from the Attorney-General's Portfolio to the Senate Standing Committee on Legal and Constitutional Affairs at the Supplementary Budget Estimates hearing of 16 October 2012. The Attorney-General's Department provides the following clarification.

Analysis of text messages

In relation to the CD-Rom text messages, the question asked by Senator Brandis (on page 86) 'had the Australian Government Solicitor analysed all of the text messages supplied on 28 May?', and to which Mr Wilkins said he would come back (page 87), was only partially answered on page 90.

On page 90 (para one), Mr Wilkins corrected the premise that any failure to read the text messages constituted a failure to review the particulars of Mr Ashby's claim filed on 28 May. Although Mr Wilkins made the statement that the particulars of the statement of claim were provided on 28 May 2012 and had been read in their entirety, he also made the point that the CD-Rom (containing the text messages) did not constitute the particulars of the statement of claim lodged by Mr Ashby.

Mr Wilkins (para two), explained the methodology and how people determined what things on the CD-Rom were looked at. He talked about the chains of communications between Mr Ashby and Mr Slipper, and Mr Ashby and Ms Doane, as well as all communications in the period between December 2011 and April 2012, and all communications between Mr Ashby and the people relevant to the abuse of process application, which included Mr Brough, Mr Lewis and Mr McArdle.

From the information supplied, it is not clear whether the chains of conversations between the individuals listed above constitute the whole content of the CD-Rom text messages; whether the messages looked at between December 2011 and April 2012 were the only messages contained on the CD-Rom; and whether all communications between Mr Ashby and the people relevant to the abuse of process application means there were other communications not considered relevant to the abuse of process application. Again, while the above information has clarified that the messages were not part of the particulars of the statement of claim provided on 28 May, it still does not answer whether the AGS had analysed all of the text messages.

The Attorney-General's Department wishes to clarify that the content of the CD-ROMs consisted of all of the data on Mr Ashby's personal phone which included material dating back to 2006. It became apparent to AGS that much of the content of the CD-ROM was not relevant to the litigation because, for instance, it involved people not related in any way to the issues. All the material which fell into categories with some prospect of being relevant to the conduct of the litigation was read and analysed. The basis on which material was selected for review as potentially relevant prior to the filing of the abuse of process application was as outlined by Mr Wilkins to the Committee. Those categories were: all communications in the period between December 2011 and April 2012 between Mr Ashby and Mr Slipper, and Mr Ashby and Ms Doane, and all communications between Mr Ashby and the people relevant to the abuse of process application, which included Mr Brough, Mr Lewis and Mr McArdle.

Yours sincerely

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