

Senate Finance and Public Administration Committee
Inquiry into Provisions of the Medibank Private Sale Bill 2006
Hearings on Friday 3 November 2006

Questions on Notice for Finance	Response
<p>1. “Did Mr Alan Briggs, who is the former First Assistant Secretary of the Social Security Division, provide advice to the Government that there was no legal basis to proceed with the sale?”</p>	<p>The Department of Finance and Administration is not aware of the supposed advice from Mr Briggs, and following a full search of our records, we have not been able to locate any such advice from Mr Briggs to the Government on the issues raised the Committee.</p>
<p>2. “Therefore, if the Parliament wanted to give the Government maximum flexibility so that it can choose any one of a range of options – in other words, not limited at all – for instance, mutualisation, public float, private placement, offer to the members, the parliament would need to amend the legislation? Is that correct?”</p> <p>“...the committee might choose to maximise the options available to the Government post 2008 rather than minimising them to an IPO...I would ask you to take it on notice if you are not able to answer today and come back to the committee. If the committee wishes to go that route, we would need to recommend amendments to the legislation.”</p>	<p>On 12 September 2006, the Minister for Finance and Administration announced the Government’s intention to sell MPL by way of a share market float in 2008. The <i>Medibank Private Sale Bill 2006</i> (the Bill) has been drafted to give effect to this decision.</p> <p>Any form of sale consistent with a public listing process would be accommodated under the Bill.</p> <p>Certain provisions in the Bill, particularly the shareholder caps, may constrain any form of sale which is not consistent with that approach, such as a trade sale of the shares.</p>
<p>3. “One of the things the committee might need to take into account is, regardless of what we think the risk might or might not be, how the Commonwealth should deal with any risk, notional or otherwise?”</p> <p>“If the committee was of the view that the Government should not indemnify for compensation, would that mean that the committee would need to recommend that the legislation explicitly specify that?”</p>	<p>The <i>Medibank Private Sale Bill 2006</i> (the Bill) contains provisions which specify that the Commonwealth is liable to pay compensation (e.g. the Constitutional ‘safety-net provisions) in certain circumstances. These provisions are included to prevent any argument that the legislation is invalid under the Constitution.</p> <p>Accordingly, the Department of Finance and Administration considers it appropriate that these provisions remain in the Bill.</p>

<p>4. "...but if I could ask you through the chair, if as a result of this discourse or anything else in the hearing the Department or the Minister is of the mind to put in a submission to us, I would be interested to see whether we have influenced your views at all." (capping the Commonwealth's liability and specifics of membership entitlement)</p>	<p>The Department of Finance and Administration considers that the Minister's press releases and public announcements, and the <i>Medibank Private Sale Bill 2006</i> and its Explanatory Memorandum, sufficiently explain the purpose, the nature of the sale and policy objectives the Government is seeking to achieve through the sale of Medibank Private.</p>
<p>5. "Just going to the CRA report, which you attached to the letter, when was that commissioned?"</p>	<p>The CRA report was commissioned by the Department of Finance and Administration Finance on 23 October 2006.</p>