

Christine Holgate

Response to Australia Post Submission and Subsequent Announcements.

I have no intent on critiquing the Australia Post Submission, but given the Chair's recent announcement, I feel it is important that the Senate receive further clarity on two very important matters, my Standing Down and my Offer of Resignation.

Standing Aside:

Since the events of October 22nd 2020, when I was instructed by the Prime Minister in Parliament that I must stand aside or go, accused of a crime when I had done no wrong, given no opportunity to be heard and then unlawfully stood down by the Chair of Australia Post, I have had to continuously defend my innocence.

The simple facts are **at no stage did I agree to stand down** and every credible piece of evidence underpins this. **There is no written evidence I agreed to stand down**, on the contrary there is significant documented evidence including to the Board Director Tony Nutt, to John Curtis (recently retired Chair of Allianz) and Andrew Pike, Executive Partner at the leading law firm Herbert Smith Freehills, that I was offering to take annual leave and that I had done no wrong. **I was unlawfully stood down by the Chair of Australia Post.**

The Chair of Australia Post continuously 'forgets' that I have an employment contract and under that contract, I am given rights, like every other employee at Australia Post. What the Chair did to me by announcing I would stand aside was unlawful, unjustified and made my leadership at Australia Post untenable, seriously impacting my health.

To aid the Senate Committee on this matter **I have sought the opinion of a leading Senior Counsel on employment matters, Mr. Ingmar Taylor SC.** His opinion can be found in **Appendix 1** of this document. His opinion concludes:

"In my opinion:

- a. the action by Australia Post of standing down Ms Holgate, assuming it was done without her agreement (in writing or at all), was in breach of contract and unlawful;
- b. a Court, if called on to do so, would determine that such conduct, if proven, was sufficiently serious as to amount to repudiatory conduct, entitling Ms Holgate to elect to terminate the contract and seek compensation. "

I urge the Senators to read this important document. It highlights that under my contract, in clause 14.1 any variation requires a document to be executed by both parties. There is no document that gives my written approval to stand me down.

My contract under clause 10.4(a) does give Australia Post the right to stand me down if it is investigating a serious disciplinary action involving me and after being satisfied there was a proper basis to do so. Neither was there a serious disciplinary offence, nor did the Chair take any time to consider it, nor were they investigating it, it was the Shareholder who were investigating the rewards. No process was followed.

A copy of my contract can be found in **Appendix 2**.

The facts regarding my Standing Down are covered extensively in my main submission on pages 37-49. However, for clarity I believe it is important to highlight some additional facts.

On pages 3 & 14 of the Australia Post review, it states I verbally agreed to stand down, this is repeated in a statement made by the Australia Post Chair, Lucio Di Bartolomeo on Wednesday 07th April 2021.

The Chair wrote to me on October 25th 2020 (dated 24th), (see Appendix 12 of my main submission). In his letter he asserts I verbally agreed to stand down although he asserts that the standing down was instructed by the Shareholder. The shareholder has no right to instruct me to stand down without going through due process. His letter blatantly ignores the law or my contract.

Following two letters to the Chair by my lawyer and a third open letter shared with the media (see Appendices 13, 14 & 15 in my main submission) in which we assert I had not agreed to stand down and I had not been given any proper notification of being stood down; the Chair writes to my lawyer on the 29th October 2020. (See Appendix 16 in my main submission) and again asserts I agreed to stand down, but again gives no details when I did this.

I write to Australia Post on Friday 30th October and ask what hour had I agreed to stand down. Their response was, they needed to seek legal advice. I heard nothing more.

In the Senate on November 7th, giving evidence, he stated that after questioning by Senator Green regarding the events of my standing aside "The Board did come together and we did consider the decision. We had discussions with Christine and ultimately she agreed." (Incidentally no one has ever confirmed who the we was).

In the Senate on March 23rd 2021 (approx. 11.28) after questioning by Senator McKenzie on whether I had been suspended, the Chair stated "we advised her, she was reluctant at first, but late that afternoon she agreed". Then at approx. 11.36am the Chair stated the Board elected to stand me down on the basis of the shareholders had asked the department to undertake an investigation; this is not lawful.

The Chair of Australia Post's defence for his actions is that he has phone records to prove his argument.

For approximately 4 weeks, I have requested the records of calls to and from my phone on October 22nd 2020. Australia Post has only provided a copy of the outgoing calls from my phone and this was 4 days after our submissions were due to be lodged with the Senate. I have not been provided with any details of my incoming calls, despite numerous requests. I have asked to see the phone records the Chair refers to in his statement and the details of the Board minutes he claims took place amongst other details. Australia Post has so far refused to provide them, informing me they could take 30 days to consider the request and if they do agree, they could charge me for collating the data. There are no details of this Board meeting in the Australia Post submission which heightens my suspicion it did not take place and the Board members neither all agreed to stand me down or approve his release on the evening of 22nd October 2020.

I would like to remind the Senators that on numerous occasions, including when I shared with Maddocks (who undertook the investigation) the Shareholder Ministers and the whole Board of Australia Post that I travelled back that afternoon with Sue Davies, the Executive General Manager People & Culture and she would be witness that I did not agree with anyone to stand down, instead I was preparing an announcement that I had offered to take annual leave. Sue Davies was also my support person at my interview with Maddocks and was the person I kept across all major correspondence on this matter. At no point has the Chair of Australia Post ever addressed this, nor did Maddocks or the Shareholders.

Interestingly as Sue was with me for the whole afternoon of October 22nd, I am also witness that the Chair did not ask her for a copy of my contract, which would be reasonable if you were holding a Board meeting that afternoon to discuss whether I should be stood down or not.

I also shared with Maddocks, the Shareholder Ministers and the whole Board that I had numerous calls, messages and emails with the Board Director, Tony Nutt that afternoon. Tony was helping me prepare a statement that I had done no wrong, I would take annual leave and I would support an investigation. I shared with them all that I had hard documented evidence of this and offered to share even more details with them. The Chair has never acknowledged this, and just like the details around Sue Davies, it is not included in any of his commentary regarding standing me down. Nor has anyone requested a copy of the further evidence, which would be reasonable considering the gravity of my claims

At no stage have I said there were not calls on my phone that afternoon to and from the Chair, or that Sue Davies did not speak to the Chair. I acknowledge that this did happen in my submission. I have asserted from the beginning that I did not speak to the Chair and agree to stand down.

There were approximately 57 outgoing phone calls from my phone on the afternoon of the 22nd October 2020 following the incident in parliament. I do not know how many additional incoming calls there were as Australia Post has not provided any records to me. The outgoing calls can be summarized as:

- Calls to my Husband, totaled 3
- Calls to seek advice on a statement, totaled 12
- Calls to Tony Nutt (Board Director who was helping me prepare the statement), totaled 14
- Calls to a Senior Partner at Herbert Smith Freehills, totaled 6
- Calls to my mentor John Curtis, totaled 10
- Calls to numerous others, totaled 10
- Calls to Chair, totaled 2.

There were also numerous text messages that afternoon. There were 9 text messages between Tony Nutt and I. There were none with the Chair, Lucio.

There were also numerous emails. There were 9 outgoing emails from 5.36pm that afternoon. I have included a copy of these in **Appendix 3** of this document, as I believe it is important the Senate can appreciate what I was communicating and with whom. There were 4 emails were with Tony Nutt including draft statements I possibly would make. 2 emails were with John Curtis, my mentor. 1 email with Andrew Pike a lawyer. 1 with a media adviser, Ross Thornton. 2 emails to the Chair, one requesting annual leave the other forwarding a complaint written to the shareholder ministers by a customer regarding what had happened to me. I received numerous emails, but none from the Chair.

The two calls on my records to the Chair's phone are at 4.27pm for 2 minutes 51 seconds that day and at 5.50pm for 4 minutes 25 seconds. I do recall seeing I had missed calls from the Chair whilst on other calls and I called back and passed my phone to Sue Davies as I did not want to speak to him as I was extremely disappointed in what had happened. These two calls appear to be the calls the Chair is referring to in his media statement on the 7th April as they are the exact same time. This suggests to me there were no other incoming calls from the Chair answered by me, or Australia Post would have detailed them.

The Chair's purported defence for what he did to me was to falsely assert that on a call between 5.50 & 5.54.27pm I agreed to stand down. I ask Senators to consider how credible is this when at 5.53.54pm I sent him an email requesting annual leave as evidenced in **Appendix 3**. Media articles report that when he was questioned on this, he said I saw her email and told her not to worry, you do not need to take annual leave, we will pay you. For this to be true, you would have to believe that in 33 seconds the Chair saw my email, argued his case and I agreed to stand down. I strongly suggest, this is not credible and has absolutely no merit.

If by any chance I had verbally agreed, why would I go on to write further draft statements to Tony Nutt and make calls to him and others.

If there was a Board meeting, as the Chair continues to claim, at which the Board members approved standing me down on the afternoon of October 22nd, why did Tony Nutt not tell the other Board members, that I did not want to stand down and that he was coaching me on a statement regarding taking annual leave. Either there was no such Board meeting, or Tony Nutt was deliberately misleading me.

In Australia Post's submission they claim they emailed a draft statement at 7.20pm on the evening of 22nd October and because I did not object, they released it. First, I arrived home at approximately 7.00pm that evening to be hit with a media storm, following an extremely traumatic day. If this is true, why did they not call me, if in 20 minutes I had not responded and it was urgent. Second, Australia Post withdrew their media statement of the night of October 22nd from the Australia Post website recently, an act which made many following this story suspicious. My notes detail this was originally put out at around 7.02pm not 7.40pm that night as they now assert, ie almost 20 minutes before it was sent to my email. I remark on this timing in my letter to the Board on the 2nd December and no one came back and corrected it.

My evidence is consistent with all the facts I gave Maddocks on November 11th 2020, both Shareholder Ministers on the 23rd and 25th November 2020 and all the Australia Post Board on the 2nd December 2020. This is included in my main submission.

On the contrary, the evidence of the Chair of Australia Post has regularly changed.

- In his letter dated October 24th;
- On November 9th giving evidence at Senate Estimates;
- On March 23rd giving evidence at Senate Estimates;
- In Australia Post's submission to this inquiry, their evidence is different again;
- In a public statement on April 7th, the Chair's evidence again evolves.

Each time I have raised that the Chair unlawfully stood me down, misled the Senate on important matters such as being extensively involved with the BCG review or not and that I had not agreed any

release with Australia Post. Despite the seriousness of these statements, I was at best told by Australia Post's lawyers, in reference to misleading the Senate that they would consider it in their own time. Neither Maddocks, who were conducting an investigation into governance covered it, nor either of the Shareholder Ministers appear to do anything.

At no point has Australia Post refuted Sue Davies was my witness to not agreeing to stand down with anyone, or that I was agreeing a very different statement with Tony Nutt that afternoon, or that my extensive evidence regarding the BCG review was not true.

The Chair's evidence throughout this has proven untrustworthy. As well as the incidences regarding myself, he cannot refute the magnitude of his involvement with the BCG review, yet even as recent as March 23rd 2021, he again denies it, at a time knowing I have shared with him and others his significant involvement.

I am extremely disappointed that not only does the Chair continue to make false statements with regard to me, fellow Board members and the Shareholder Ministers are protecting this behaviour and not addressing the serious concerns I have raised.

I conclude, the evidence of the Chair of Australia Post on this matter cannot be trusted. This is evidenced by a complete lack of any lawful justification to stand me down or written evidence of facts that I agreed.

My Offer to Resign.

This subject is extensively covered in my submission under section C, from page 19 in my main submission.

In Australia Post's submission and the Chair's media statement on April 7th, they continue to assert that they have resolved my employment, I believe it is important that the Senators are aware of certain important facts.

As noted above, I was unlawfully stood down, I did not agree to stand down and the actions of the Chair repudiated my contract. See **Appendix 1** for the advice from the Senior Counsel.

Under my contract, see **Appendix 2**, it clearly states in clause 14.1, that any variations to my contract must be resolved by both parties. **I have not signed any document.** Again, Australia Post appear to blatantly disregard my contract.

I offered to resign with the important condition was that the agreement was reached that day. It was not.

I offered to resign that day on 2nd November as I was extremely concerned about the damaging effect the investigation was having on the business and our people, at a time when it was critical everyone was focused as we entered peak and I was concerned for my own health. I had suffered the most harrowing 10 days of my career. I was under significant stress, taking medication and formally on sick leave. All of which the Board was fully aware of.

I personally find it offensive that the Australia Post Chair can write “we were saddened and disappointed when Ms. Holgate resigned’ and ‘Ms. Holgate’s welfare remained a priority’. If this was true, why did not one Board member come and visit me, why did the Board Director and Chair of People & Sustainability, Deidre Wilmott not reach out to me, or why did not one Board Director make any effort to defend my character, even when I was being depicted as a prostitute. Sue Davies, acted personally to support me, not under the instruction of the Board. Why did the Chair not call me or make any effort to assess whether resigning was what I really wanted? If Australia Post genuinely wanted me to remain, why did they cut me off from critical reports, disallow me to talk to employees or communicate with customers.

If such was their disappointment, why was the next communication I received from the Chair on the following day ie 3rd November 2020 (after their offer for me to sign a variation to my contract), a request for me to approve the Hansard in effectively 36 hours. The Hansard attached could not be printed or marked up and as that day was a public holiday in Victoria no one could help. I had to wait until the following day and even then, they refused to give me proper access to the file and instead I had to rewrite out all corrections and review a 41-page document in very small print. This did not feel like the action of a Chair who was saddened and concerned for my health.

Their statement is shallow and offensive.

The Australia Post Chair’s at Senate Estimates on March 23rd (at approximately 12.44pm) clearly stated they did not seek to vary my contract or place any additional conditions on me. On the 7th April the Chair’s statement explains that my contract expires on the 2nd May. Neither of these statements were the intent of Australia Post.

First, why did Australia Post write to me and ask me to sign a variation to my contract adding an additional clause when they asked me to sign:

“I, Christine Holgate, agree that my resignation will take effect immediately (today) and I will not receive a payment in lieu of notice or any other financial compensation from Australia Post.”

My lawyer was suspicious of this, not only did he believe the letter was potentially unlawful as it did not qualify that I would receive statutory benefits, nor did it make it clear that I would be released that day, he believed they would hold me to all terms but not pay me, he also noted the additional term as highlighted above. He believed if I signed this, I would potentially not be able to make any future claims against the organisation, even if they continued to defame me. This is a right I have in my contract today and seeking me to forgo this right, was clearly an additional condition. I did not sign it.

His concerns were confirmed in the two letters Australia Post wrote on December 16th. See **Appendix 4**. The first letter clearly states “Australia Post does not agree with your assertion that the post-employment restraints that apply to Ms Holgate are unenforceable in the absence of a payment to her.” This confirms that they were trying to hold me to not working for 12 months with no pay. The second letter is an offer to waive my 6 months non-compete if in turn I release “the Australia Post companies and their officers and employees from all legal claims relating to her employment and the termination of her employment”. I did not sign it.

It is very clear that at a time when I was ill and vulnerable, yet still trying to do ‘the right thing’ for our customers and employees, Australia Post chose to attempt to trick me into signing a very poor

agreement; one which could effectively hold me from working for up to 12 months, I would receive no pay and I would have no ability to address their continuing defaming of me. All of this after they had already knowingly unlawfully stood me down.

Generally, I have respect for individuals who choose to serve our country through a Government role. I believe serving our country is a great honour and it is for these reasons I chose to continue to chair two very important Boards for the Government, Co-Chairing the Ministerial Advisory Council for Trade – now with Minister Tehan and Chairing the Australia ASEAN Council. I am though greatly disappointed that both Shareholder Ministers and the Prime Ministers Office all knew there were issues with my offer to resign, including that I had not signed a Deed of Release. Both Shareholder Ministers knew my health was seriously suffering. Yet they have all done nothing to help resolve it, even after several requests for help and now claim what has happened to me following the events in Parliament, was a matter for the Board.

Since my submission became public last week, I have received considerable offers of legal advice, many have suggested that Australia Post again failed to follow good process. Fair Work suggests that when an individual is on sick leave, particularly if that leave was due to mental health reasons, the employer has an obligation to thoroughly test this is what they want. This of course did not happen with me, not one person on the Board offered to meet with me to check-in on me and test this is what I really wanted, yet they all knew I was seriously ill. Again, the Australia Post Chair failed in his duties.

Throughout this period the Australia Post Chair has acted in a manner that is the antithesis to the implied duty of trust and confidence.

Appendix 1.



GREENWAY CHAMBERS

CHRISTINE HOLGATE V AUSTRALIA POST
MEMORANDUM OF ADVICE

INGMAR TAYLOR SC

Greenway Chambers
Level 10, 99 Elizabeth Street
Sydney NSW 2000

T |

E |

Damian Sturzaker
Marque Lawyers Pty Ltd
Level 4, 343 George Street
Sydney NSW 2000

T |

M |

E |

TABLE OF CONTENTS

Whether the action of standing Ms Holgate aside was lawful _____	10
Whether the action of standing Ms Holgate aside amounted to a repudiation of the Contract__	11
Conclusion _____	12

MEMORANDUM OF ADVICE

CHRISTINE HOLGATE V AUSTRALIA POST

1. My instructing solicitors, Marque Lawyers, act for Christine Holgate, former Managing Director and Group CEO of Australia Post.
2. I have been briefed with a number of documents including Ms Holgate's employment contract with Australia Post dated 19 June 2017 (**the Contract**), and correspondence between Ms Holgate and Australia Post commencing on 24 October 2020 concerning her being stood aside from her duties and the subsequent termination of the Contract. I have also been provided with a copy of a submission by Ms Holgate dated 19 March 2021 to the Environment and Communications References Committee of the Senate in respect of its inquiry into Australia Post which contains, relevantly, Ms Holgate's recollection of key events.

WHETHER THE ACTION OF STANDING MS HOLGATE ASIDE WAS LAWFUL

3. Ms Holgate was stood aside with pay effective 24 October 2020. The letter from Australia Post dated 24 October 2020 stated she was not to attend the workplace or carry out any of her ordinary work duties other than as directed by the Chairman, nor was she to have any work-related communications with any directors, officers or employees of Australia Post.
4. The general rule is that it is not a breach of contract for an employer to determine to provide an employee with no work, provided they continue to pay them. That rule does not apply in respect of those who hold a particular office, such as a CEO. As a matter of contract, such an employee cannot be relieved of their duties, whether with or without pay, absent an express term of the contract which permits that to occur. If there is any such express term it is to be construed strictly, given such a right is otherwise contrary to the essence of such a contract.
5. Clause 10.4(a) of the Contract, whilst not using the expression "stand aside" provided Australia Post with the right to direct Ms Holgate to perform only such duties as Australia Post may determine or not to perform any duties at all in certain limited circumstances. The right could be exercised only during a period of notice of termination (ie 'gardening leave') or "during any period in which Australia Post is investigating any disciplinary issue involving [Ms Holgate]" (my emphasis).
6. There is a factual dispute as to whether Ms Holgate agreed to stand aside. The letter from the Chair of 24 October 2020 stated that Ms Holgate had agreed to stand aside. Ms Holgate, through her lawyer, responded stating that she had expressly not agreed

to stand aside. This is a position that Ms Holgate has always maintained and is addressed in her Senate submission. She offered to take a period of annual leave but refused to stand aside or accept that she could be stood aside and disputed strongly that there was any basis upon which she could be asked to be stood aside.

7. The Contract at clause 14.1 provided that it could only be varied or replaced by a document executed by both parties. To the best of my knowledge no document containing a written agreement varying the contract to provide that Ms Holgate stand aside was executed. Australia Post in its correspondence does not suggest any such written agreement was made.
8. The letter of 24 October 2020 from the Chair stated that Ms Holgate was being stood aside “pending the outcome of the Shareholder’s investigation and any further action taken by Australia Post”. The reference to Shareholder is a reference to the Minister(s) of the Federal Government who hold the shares in Australia Post on behalf of Commonwealth. The reference to an investigation is a reference to an announcement made by Minister Paul Fletcher that the Government had appointed a person to investigate the circumstances in which Australia Post had purchased and given to four senior executives Cartier watches.
9. The contractual term permitting her to be stood aside applied only if there was to be an investigation of a disciplinary nature by Australia Post. The investigation in question was not being conducted by Australia Post. Further, before Australia Post could determine to commence a disciplinary investigation process it would have needed to have been satisfied that there was a proper basis to do so. There would have to be, at the very least, a very serious question as to whether it could have formed the requisite view given relevant facts known to Australia Post at that time as to the circumstances in which the watches had been purchased, which demonstrated their purchase involved no misconduct by Ms Holgate.
10. For those reasons, assuming Ms Holgate did not agree to do so, standing her aside was in breach of contract and so unlawful.

WHETHER THE ACTION OF STANDING MS HOLGATE ASIDE AMOUNTED TO A REPUDIATION OF THE CONTRACT

11. A repudiation of a contract occurs when a party engages in conduct that clearly evinces an absence of willingness to perform that party’s contractual obligations, and the unwillingness is sufficiently serious.
12. A repudiatory breach ordinarily entitles the party affected to elect to terminate the contract and seek compensation for the unlawful conduct.

13. Unless permitted by the contract of employment, to stand aside the CEO of an organisation and direct them to undertake no work and engage in no workrelated communications goes so squarely to the heart of the contract as to amount to a repudiatory breach of contract.
14. In my opinion the conduct of standing Ms Holgate aside, if done without her agreement, repudiated Ms Holgate's contract and gave her the right to accept that repudiation, terminate the contract and, if she chose, seek compensation.

CONCLUSION

15. In my opinion:
 - c. the action by Australia Post of standing down Ms Holgate, assuming it was done without her agreement (in writing or at all), was in breach of contract and unlawful;
 - d. a Court, if called on to do so, would determine that such conduct, if proven, was sufficiently serious as to amount to repudiatory conduct, entitling Ms Holgate to elect to terminate the contract and seek compensation.

INGMAR TAYLOR SC GREENWAY CHAMBERS
11 APRIL 2021

Appendix 2 - A copy of my employment contract. See attached



19 June 2017

Christine Holgate

JOHN STANHOPE AM

Chairman

GPO Box 1777
MELBOURNE VIC 3001
111 BOURKE STREET
MELBOURNE VICTORIA 3000
Telephone +61 3
Facsimile +61 3
www.auspost.com.au

Dear Christine

Letter of offer: Managing Director & Group CEO

On behalf of Australia Post, I am pleased to formally offer you the position of Managing Director & Group CEO. This follows approval by the Board at its meeting on 13 June 2017.

However, as we have discussed, the offer is still subject to shareholder approval. We understand that Cabinet is considering the recommendation to appoint you and we should be able to advise you of the outcome shortly.

Further, your employment is subject to your agreement to the conditions set out in the attached employment contract and our standard satisfactory medical, criminal and security checks.

The start date for your employment will be 15 January 2018 or earlier by mutual agreement. I note that a later start date would require shareholder approval to extend arrangements for an Acting Managing Director & Group CEO.

Remuneration

As we have discussed, the terms and conditions of employment for this role are governed by the Remuneration Tribunal. We have consulted with the Remuneration Tribunal to explain the nature of the role and to obtain guidance on their requirements. This offer has been constructed based on that guidance, particularly regarding maximum permitted remuneration (referred to below as Total Potential Reward).

For the purposes of constructing remuneration packages for senior executives, we set a fixed component (**Fixed Annual Remuneration**) together with at risk performance based 'target' and 'stretch' incentives calculated as a percentage of your Fixed Annual Remuneration.

Your Fixed Annual Remuneration (full time equivalent) package (excluding any performance based payment) per annum is \$1,375,000. In the event that you achieve both target and stretch incentives based on your performance, your maximum potential annual remuneration (**Total Potential Reward**) would be \$2,750,000.

Details of the components of that package are outlined below:

Element	Offer
Base Salary	\$1,354,951
Compulsory Superannuation Component (choice of fund)*	\$20,049
Fixed Annual Remuneration	\$1,375,000
Target incentive (70% of Fixed Annual Remuneration)**	\$962,500
Total Target Reward (at target performance)	\$2,337,500
Stretch incentive (30% of Fixed Annual Remuneration)**	\$412,500
Total Potential Reward (at stretch performance)	\$2,750,000

*This superannuation component is based on the minimum superannuation guarantee contribution up to the maximum contribution base. The super guarantee charge percentage is currently 9.5% on Ordinary Time Earnings up to the maximum contribution base (\$52,760 per quarter, for financial year 2017-2018). If you elect to contribute a higher percentage into superannuation than the minimum, this will have a corresponding impact on the Base Salary component of your remuneration package.

** 75% of any incentive awarded (target and stretch) in respect of a performance year will be payable in the following September and 25% deferred by 12 months.

Prior to your commencement we will discuss with you your preferred fund for superannuation guarantee contributions and make arrangements with you for contributions to be made to the fund.

Your remuneration will be reviewed annually in accordance with the requirements of the Remuneration Tribunal.

Performance Pay

An element of your incentive payments is subject to deferral. In your case, 75% of any incentive (target and stretch) in respect of a performance year is payable in the following September and 25% is deferred by 12 months. Unless the Board determines otherwise, the deferred component is only payable if you remain employed by Australia Post at 30 June in the following year.

Participation in the performance incentive scheme does not guarantee any payment under the scheme. Your performance criteria will be discussed with you and set by the Board ahead of each assessment period and will be subject to bi-annual performance reviews (normally in January and July). Each financial year the Board will approve an Enterprise Scorecard which will then become your Scorecard for the purposes of your performance plan. The Board may allocate greater or lesser weight to any of the Scorecard metrics. They may also set additional criteria beyond the Scorecard. Your performance against the criteria and your entitlement (if any) to an incentive will be determined following the conclusion of the financial year.

Performance pay will normally be paid in September each year.

Location

As we have discussed, Australia Post's Head Office and this role are located in Melbourne. However, I acknowledge that your preference is to maintain your principal place of residence in Sydney. Accordingly, provided you commit to spending an average of 4 business days per week in Melbourne, Australia Post will make the normal arrangements for payment of your travel costs between Melbourne and Sydney in the course of

performing your role. In order for you to have time to arrange your own accommodation in Melbourne, we will pay for appropriate accommodation (e.g. serviced apartment) for up to 6 months in accordance with the determination set by the Remuneration Tribunal.

External Appointments

I note that you are currently a director of the Collingwood Football Club and Board Chair of the Australia-ASEAN Council. Australia Post is comfortable for you to continue with those appointments, provided they do not diminish your capacity to perform the duties of your role and subject to the appropriate management of any conflicts of interest. This letter serves as written consent for the purposes of clause 6.4 of the employment contract.

Fair Work Information Statement

Attached is a "Fair Work Information Statement" prepared by the Fair Work Ombudsman which we must provide to you by law. The Statement refers to employment matters that may apply to and affect you in your employment. Please note that the employment entitlements referred to in the Statement are minimum conditions only. In many cases, entitlements provided by Australia Post will be more generous than the minimum conditions referred to in the Statement.

What you need to do now

This offer will remain open for a period of 14 days from us notifying you regarding shareholder approval or until 14 July 2017 (whichever is earlier).

The terms of this offer and the enclosed employment contract are confidential and may not be disclosed to any other person (except for the purposes of disclosure requirements, including in annual reports and to meet shareholder expectations, or for the purposes of obtaining professional legal or accounting advice). However, if you have any questions or concerns regarding this offer please contact me on _____ or _____, or Chris on _____ or _____.

To confirm acceptance of the conditions outlined above and contained in the attached employment contract, please sign the contract (both copies) in the presence of a witness and return them to Chris. Please also provide evidence of your right to work in Australia.

I look forward to working with you.

Yours sincerely

John Stanhope AM

Contract of Employment

Christine Holgate

AUSTRALIAN POSTAL CORPORATION 19 JUNE 2017

Contents

1	Your role	1
1.1	Position	1
1.2	Duties and changes to duties	1
1.3	Reporting line	2
1.4	Location	2
1.5	Change of location	2
1.6	Employment Checks	2
1.7	Conditions Precedent	3
2	Hours of work	3
2.1	Hours	3
3	Remuneration	4
3.1	Quantum and components of remuneration	4
3.2	Performance or incentive payments	5
3.3	Remuneration review	5
3.4	Superannuation	6
3.5	Set-off	6
3.6	Deductions	6
4	Discretionary benefits	7
5	Expenses	7
6	Professional and ethical conduct	7
6.1	Professional Conduct	7
6.2	Ethical conduct	7
6.3	Conflicts of interest	7
6.4	External appointments	8
6.5	Confidential information	8
6.6	Non-competition	8
7	Entitlements to leave	8
8	Intellectual property	9
8.1	Meaning of Intellectual Property	9
8.2	Intellectual Property Obligations	9
8.3	Meaning of Moral Rights	10
8.4	Moral Rights	10
8.5	Enduring Obligations	10
9	Policies and procedures	10
10	Ending Your employment	10
10.1	Employment ending on notice by Australia Post	10
10.2	Employment ending on notice by You	11
10.3	Summary dismissal	11
10.4	Garden leave	11

10.5	Termination payment	12
10.6	Return of property	12
10.7	Resignation as director	13
10.8	No representations following termination of employment	13
11	Compliance and approvals	13
12	Fair Work Information Statement	14
13	Interpretation	14
13.1	Construction	14
13.2	Headings	15
14	General	15
14.1	Amendment	15
14.2	Waiver and exercise of rights	15
14.3	Rights cumulative	15
14.4	Further steps	15
14.5	Governing law and jurisdiction	15
14.6	Counterparts	15
14.7	Entire understanding	16
14.8	This Contract is confidential	16
14.9	Independent advice	16

19 June 2017

Parties

Christine Holgate of
Wales, (You)

New South

Australian Postal Corporation of 111 Bourke Street, Melbourne, Victoria,
3000 (Australia Post)

Agreed terms

1 Your role

1.1 Position

You will be employed in the position of **Managing Director & Group CEO** on the terms and conditions set out in this document (**Contract**) from 15 January 2018 (**Commencement Date**). Your employment with Australia Post is conditional upon you maintaining the right to work in Australia, which is a specific requirement of working in this position.

You will be a member of the board of directors of Australia Post (**Board**).

You may also be appointed a director of one or more Group Companies or of external organisations in connection with your employment (**Directorships**). Your appointment will be subject to the relevant company's constitution.

Group Company means any related body corporate of Australia Post within the meaning of the *Corporations Act 2001 (Cth)* (**Corporations Act**).

1.2 Duties and changes to duties

- (a) You will faithfully and diligently perform, to the best of your abilities and knowledge, such duties as Australia Post may from time to time assign to You.
- (b) You are required to achieve a satisfactory level of performance of your duties as measured against performance objectives as approved by the Board.
- (c) You are required to comply with all reasonable directions of Australia Post, in the performance of your duties.
- (d) Australia Post may at any time change the duties assigned to You.

- (e) Unless this Contract is replaced by another agreement, the terms and conditions set out in this Contract will continue to apply to your employment even if Your duties are changed in accordance with this **clause 1.2**.

1.3 Reporting line

You will report to the Chairman of Australia Post (**Chairman**) and the Board.

1.4 Location

You will be based at Australia Post's premises at **111 Bourke Street, Melbourne, Victoria, 3000** but may be required to relocate to other Australian or overseas locations.

1.5 Change of location

Unless this Contract is replaced by another agreement, the terms and conditions set out in this Contract will continue to apply to your employment even if Your location is changed in accordance with **clause 1.4** above.

1.6 Employment Checks

- (a) Prior to commencing and throughout Your employment in the position referred to in **clause 1.1**, Australia Post may require you to undertake medical, criminal, security, or character checks where Australia Post determines it desirable or necessary to do so.
- (b) Your offer of employment and ongoing employment is conditional upon:
 - (i) You complying with any requirement to undergo a check;
 - (ii) You ensuring that the information provided for the purposes of the check is true and correct; and
 - (iii) the results of any check being satisfactory to Australia Post.
- (c) In the event any of the checks (when and if conducted) reveal that You have given false information or disclose unsatisfactory results, Australia Post reserves the right to immediately terminate Your employment without notice, or, if Your employment has not commenced, to immediately revoke any offer of employment that may have been made to You.
- (d) If, during your employment, You are charged with or convicted of a criminal offence, You must notify the Chairman in writing at the earliest opportunity.
- (e) It is also a requirement of Your employment with Australia Post that you produce evidence of Your right to lawfully work in Australia where requested to do so. You must inform Australia Post as soon as

there is a change to your circumstances that affects your entitlement to lawfully work in Australia.

1.7 Conditions Precedent

- (a) This Contract other than clauses 1.7, 11, 12, 13 and 14 (the **Specified Clauses**) will not bind the parties and Your employment will not proceed unless and until the following conditions (the **Conditions Precedent**) are fulfilled or waived in accordance with this Contract:
 - (i) Australia Post completing all notifications to, and obtaining all authorisations, approvals or consents from, its shareholder the Australian Government necessary to employ You; and
 - (ii) Your resignation from your current employment.
- (b) Each party must cooperate with the other and do all things reasonably necessary to ensure the Conditions Precedent are fulfilled as soon as reasonably possible and, in any event, on or before 14 July 2017 (the **Conditions Precedent End Date**).
- (c) Each party must promptly notify the other on becoming aware of the fulfilment of any Condition Precedent or of any Condition Precedent becoming incapable of being fulfilled.
- (d) The Conditions Precedent are for the benefit of Australia Post and may only be waived by Australia Post, which waiver must be in writing.
- (e) Australia Post may terminate this Contract on or before the Conditions Precedent End Date if:
 - (i) any of the Conditions Precedent are not fulfilled, or in Australia Post's reasonable opinion they are incapable of being fulfilled; or
 - (ii) any consent, approval or authorisation required under any of the Conditions Precedent is granted on terms unacceptable to Australia Post.
- (f) If this Contract is terminated under this clause, this Contract (other than clauses 1.7, 11, 12, 13 and 14) will be null and void and of no effect.

2 Hours of work

2.1 Hours

- (a) You will work such hours as are necessary to perform the duties required by your position (referred to in **clause 1.1**) including during Australia Post's normal business hours.

- (b) You may from time to time be required to work on weekends and public holidays.
- (c) You acknowledge and agree that, having regard to the nature of your position, the operational requirements of Australia Post and your remuneration, the hours required to be worked under paragraphs (a) and (b) are reasonable.
- (d) Your remuneration includes compensation for work outside normal hours and on weekends and public holidays and you will not be entitled to any additional remuneration or other benefit for work outside these hours.

3 Remuneration

3.1 Quantum and components of remuneration

- (a) You will be paid Fixed Annual Remuneration totalling **\$1,375,000** per year or such amount as may be determined from time to time in accordance with a Review under **clause 3.3**.
- (b) Your Fixed Annual Remuneration comprises the following components:
 - (i) Salary (unless otherwise agreed, your Salary is inclusive of any director's fees in respect of Australia Post or Group Companies);
 - (ii) Superannuation contributions;
 - (iii) Such other Salary Packaged Items as requested in writing by You from time to time in accordance with paragraph (c) below; and
 - (iv) The amount of any fringe benefits tax, GST and other taxes payable by Australia Post in consequence of the provision of your Salary Packaged Items.
- (c) Salary Packaged Items may be requested in writing by You, from time to time, subject to:
 - (i) the agreement of Australia Post to allocate a portion of your Salary to the Salary Packaged Item;
 - (ii) the allocation applying only prospectively; and
 - (iii) any limitations on salary packaging under applicable legislation.
- (d) Australia Post may, in its sole discretion, alter the value of any of the above components so that the total cost of the components is equivalent to the quantum of Fixed Annual Remuneration determined in accordance with **clause (a)**.

- (e) Australia Post shall deduct from the Fixed Annual Remuneration and remit to the appropriate authorities such amounts as it is required under law to deduct and remit for taxation, including income tax and any fringe benefits tax that is payable in relation to the Fixed Annual Remuneration.

3.2 Performance or incentive payments

- (a) You may be invited to participate in a performance or incentive plan from time to time on terms determined by Australia Post.
- (b) A performance or incentive plan may be withdrawn or the terms of the plan varied from time to time at the absolute discretion of Australia Post.
- (c) Subject to clause 3.2(e), You will not be eligible for a performance or incentive plan payment in respect of any financial year where:
 - (i) a performance agreement was not in effect prior to 31 March in that financial year;
 - (ii) You are no longer employed by Australia Post on 30 June in that financial year; or
 - (iii) Australia Post discovers the achievement of a performance or incentive plan payment was based on data that is the result of, or has been influenced by, fraud by You or data that has been deliberately misstated or misrepresented by You. Such payments will be regarded as overpayments and will be recoverable by Australia Post.
- (d) Performance or incentive payments will be paid subject to deduction of any applicable taxes and superannuation contributions as required by law.
- (e) The Board may, in its absolute discretion, decide to pay a performance or incentive plan payment on a pro rata basis in the circumstances described in clause 3.2(c).

3.3 Remuneration review

- (a) Your Fixed Annual Remuneration will be reviewed annually by Australia Post (**Review**). The Review will be conducted subject to the requirements of the Remuneration Tribunal.
- (b) Any increase to your Fixed Annual Remuneration as a result of the Review is entirely at the discretion of Australia Post. There is no presumption that your Fixed Annual Remuneration will be increased upon review.
- (c) Any changes to your Fixed Annual Remuneration as a result of the Review will take effect from a date to be determined by Australia Post.

3.4 Superannuation

- (a) Australia Post will make superannuation contributions (which are included in your Fixed Annual Remuneration) at the minimum rate required to avoid any charge under the *Superannuation Guarantee Charge Act 1992* (Cth) (currently 9.5% of ordinary time earnings (eg Salary) up to the maximum contribution base).
- (b) Australia Post will make superannuation contributions on your behalf to a complying fund of your choice or, if You do not elect a complying fund, Australia Post will make superannuation contributions on Your behalf to the default Australia Post superannuation fund.
- (c) For the avoidance of doubt, if there is any increase to the minimum rate that Australia Post is required to contribute to a complying superannuation fund to avoid a charge under the *Superannuation Guarantee Charge Act 1992* (Cth), there will be no increase to your Fixed Annual Remuneration. The components of your Fixed Annual Remuneration would be adjusted in accordance with **clause 3.1(d)**.

3.5 Set-off

- (a) Your remuneration compensates You for any and all legal entitlements You have (including, but not limited to, any and all minimum weekly wages, overtime payments, weekend and holiday penalties, shift allowance/penalties, vehicle allowance, travelling expenses, higher duties allowance, first aid allowance, living away from home allowance, meal breaks, penalty payments including overtime, payments on public holidays, annual leave loading) that may arise under any law or industrial instrument.
- (b) Any remuneration that is in excess of the minimum rates under any law or industrial instrument may be set off against any other monetary obligations imposed by any law or industrial instrument.
- (c) The rates used for calculating any set off will be the relevant minimum rates contained in any law or modern award.

3.6 Deductions

- (a) In the event of any overpayment, to the extent permitted by law, You authorise Australia Post to make deductions from any future payments of Salary until the amount of the overpayment is recovered. The amount of such deductions will be determined following discussion with You.
- (b) Upon termination of your employment, Australia Post may, to the extent permitted by law, deduct from any payment due to you on termination any money advanced to you or owing by you to Australia Post.

4 Discretionary benefits

- (a) Any benefit provided to You by Australia Post that is not referred to in this Contract is a discretionary benefit and may be withdrawn or varied at any time in the absolute discretion of Australia Post.
- (b) You may not exchange any discretionary benefit for cash or other items.

5 Expenses

Australia Post will reimburse to you in accordance with any guidelines issued by Australia Post regarding the reimbursement of expenses, any reasonable expenses incurred by You in the performance of Your duties, subject to the provision of evidence and receipts in accordance with those guidelines.

6 Professional and ethical conduct

6.1 Professional Conduct

- (a) You must use all reasonable endeavours to promote, develop and extend the business of Australia Post.
- (b) You must devote all of your time, attention and skills during Australia Post's business hours and such other hours as may be required to the performance of duties and the business of Australia Post.
- (c) You must comply with any duties imposed by law (including under the *Public Governance, Performance and Accountability Act 2013* (Cth) and the *Australian Postal Corporation Act 1989* (Cth)) (**Australian Postal Corporation Act**) and instructions or directions given by the Chairman or the Board.
- (d) You must comply with all reasonable and lawful directions of Australia Post specific to You as well as those generally applicable to the employees of Australia Post. For the avoidance of doubt, any directions contained in the policies and procedures of Australia Post are directions for the purposes of this clause.

6.2 Ethical conduct

You must demonstrate behaviours that are consistent with Australia Post's Policies, including but not limited to "Our Ethics" and any policy that succeeds "Our Ethics".

6.3 Conflicts of interest

- (a) You must not act in conflict with the interests of Australia Post or a Group Company.

- (b) You must manage and monitor Your affairs so that there is no conflict between Your interests and those of Australia Post or a Group Company.
- (c) If any real or apparent conflict arises, You must notify the Chairman at the earliest opportunity and do all such things as You may be directed to do to manage the conflict situation.

6.4 External appointments

- (a) During Your employment, you must not be engaged or interested in any other public or private work or duties, either directly or indirectly (including as principal, agent, partner, employee, shareholder, unit-holder, joint venture, director, trustee, beneficiary, manager, consultant or advisor).
- (b) However, You may, with the prior written consent of the Chairman, accept appointments as a director of other companies and to the boards of committees and charities and devote such time as may be necessary to these activities on such terms as Australia Post may permit.
- (c) Paragraph (a) does not prevent You from holding (directly or indirectly) in aggregate not more than 5% of the shares in any body corporate listed on a recognised stock exchange or in aggregate not more than 10% of the shares in any privately held body corporate.

6.5 Confidential information

Australia Post is concerned to protect its sensitive and confidential information and its reputation. To ensure protection of these interests, you are required to execute the Confidentiality Deed at Annexure A to this Contract.

6.6 Non-competition

Australia Post is concerned to protect its valuable commercial information and business contacts. To ensure protection of these interests, You are required to execute the Restraint Deed at Annexure B to this Contract.

7 Entitlements to leave

- (a) You will accrue annual leave on a pro-rata basis. For each year of full-time service with Australia Post, You are entitled to the following:
 - (i) Four weeks of paid annual leave; and
 - (ii) 15 days of paid personal/carer's leave.
- (b) You may make a request to take your accrued annual leave at any time. Australia Post will not unreasonably refuse Your request and will take into account all relevant considerations, including the needs

of the business and any peak or blackout periods implemented by Australia Post from time to time.

- (c) Australia Post may reasonably require You to take accrued paid annual leave at certain times, for example, where You have accrued excessive annual leave.
- (d) You are entitled to long service leave, compassionate leave, parental leave and other applicable leave in accordance with applicable legislation.
- (e) In accessing leave referred to in this clause, You must comply with the requirements of any applicable policies of Australia Post.
- (f) No payment will be made in lieu of personal/carer's leave, either on termination of Your employment or otherwise.

8 Intellectual property

8.1 Meaning of Intellectual Property

Intellectual Property means any and all industrial and intellectual property of any kind (whether or not in a material form) including but not limited to:

- (a) patents, trade marks, copyright (existing and future), designs (whether registered or unregistered) and business and trade names;
- (b) any application or right to apply for registration in respect of the rights in paragraph (a);
- (c) software and computer programs (including both source and object codes), eligible layout rights, plant varieties, database rights, know-how and other information including methods and processes, specifications, formulas and research data and discoveries; and
- (d) improvements to any industrial and intellectual property of any kind.

8.2 Intellectual Property Obligations

- (a) You acknowledge and agree that all Intellectual Property that is developed, created or conceived by you in the course and scope of Your employment or using the equipment, data or other resources of Australia Post, is and will be the sole and exclusive property of Australia Post.
- (b) You assign all such Intellectual Property to Australia Post, including all good common law and statutory rights and remedies and any rights of action now or later available to you in relation to the Intellectual Property.
- (c) At any time upon request either during or after your employment, you will execute all documents and do all things reasonably required to:

- (i) effect the assignment referred to above;
 - (ii) evidence the vesting in Australia Post of title to the Intellectual Property; and
 - (iii) enable Australia Post to protect the Intellectual Property by registration.
- (d) You must promptly notify Australia Post of all Intellectual Property other than copyright works contained in the official records of Australia Post.

8.3 Meaning of Moral Rights

Moral Rights means a right of attribution of authorship, a right not to have authorship falsely attributed and a right of integrity of authorship.

8.4 Moral Rights

You irrevocably grant Australia Post (and Australia Post's licensees, successors in title and authorised agents) consent to do or omit to do any act which would otherwise infringe your Moral Rights under the *Copyright Act 1968* (Cth) in relation to all copyright works You make in the course of Your employment or during the term of Your employment, whether such act or omission occurs before or after the date of this Contract.

8.5 Enduring Obligations

Your obligations in respect of Intellectual Property and Moral Rights survive termination of Your employment.

9 Policies and procedures

- (a) Australia Post's policies and procedures are available on Australia Post's intranet.
- (b) You must treat Australia Post's policies and procedures as directions of Australia Post and comply with them accordingly.
- (c) Notwithstanding any other clause in this Contract (including clauses 6.1(d), 6.2 and 7(e)) Australia Post's policies and procedures do not form part of Your contract of employment.
- (d) Australia Post may vary, withdraw, add to or replace any policy or procedure from time to time.

10 Ending Your employment

10.1 Employment ending on notice by Australia Post

- (a) Australia Post may terminate Your employment at any time by giving You 6 months' written notice.

- (b) Australia Post may provide payment in lieu of all or part of this notice period.

10.2 Employment ending on notice by You

You may terminate your employment at any time by the provision of 6 months' written notice to Australia Post.

10.3 Summary dismissal

- (a) Australia Post may at any time immediately terminate your employment without notice if you commit any act of serious misconduct.
- (b) Serious misconduct includes, but is not limited to:
 - (i) any breach of "Our Ethics" or any successor policy;
 - (ii) failing or refusing to comply with any reasonable and lawful direction given by Australia Post;
 - (iii) any breach of **clause 6.3**;
 - (iv) failing to give substantially all of Your time and personal attention during Australia Post's business hours, or as otherwise required by Australia Post, to the performance of the position;
 - (v) being absent without approval and without reasonable excuse;
 - (vi) wilfully, whether before or after entering into this Contract, supplying to Australia Post, an employee of Australia Post, or some other person acting on behalf of Australia Post, false or misleading information in connection with Your employment with Australia Post;
 - (vii) being charged for, committing or being found guilty of any act (whether in the course of Your employment nor not) which, in the reasonable opinion of Australia Post brings you into disrepute or may cause serious damage to the reputation of yourself, the Board or any joint venture partner, business associate or Group Company;
 - (viii) being precluded by the provisions of the Corporations Act from taking part in the management of a corporation, or being disqualified for any reason from holding an office of Australia Post; or
 - (ix) any significant or persistent breach of this Contract.

10.4 Garden leave

- (a) During part or all of any period of notice of termination given by You or by Australia Post or during any period in which Australia Post is

investigating any disciplinary issue involving you, Australia Post may, at its sole discretion:

- (i) require You to perform only such duties as Australia Post may determine or not to perform any duties at all;
 - (ii) require You not to have any contact with any employees, customers or business associates of Australia Post other than normal social contact; and/or
 - (iii) exclude You from all or part of Australia Post's premises.
- (b) Your remuneration will not be withheld or reduced as a result of You complying with such directions.

10.5 Termination payment

- (a) In addition to notice, if your employment is terminated under **clause 10.1**, You will be entitled to:
- (i) four weeks of Your Fixed Annual Remuneration for each completed year of continuous service (prior to the date of Your termination) up to five years, plus a pro-rata payment for each completed month of continuous service since the last completed year of continuous service if Your period of service is less than five years; and
 - (ii) subject to **clause 10.5(a)(i)**, three weeks of Your Fixed Annual Remuneration for each completed year of continuous service in excess of five years, plus a pro rata payment for each completed month of the continuous service since the last completed year of service.
- (b) Where You are over 50 years of age as at the date of termination of Your employment, the amount referred to in **clause 10.5(a)(ii)** will be increased to four weeks of Your Fixed Annual Remuneration for each completed year of service beyond 50 years of age including pro rata adjustment for each completed month of continuous service since the last such completed year of service.
- (c) The total sum payable to You pursuant to **clause 10.5(a)** and **10.5(b)**, including any payment in lieu of notice under **clause 10.1**, will be no more than an amount equal to 12 months of Your Fixed Annual Remuneration.

10.6 Return of property

- (a) Upon termination of Your employment for any reason, or at any time at the request of Australia Post, you must immediately return to Australia Post any Australia Post or Group Company property in your possession or control.

- (b) In the case of documents, computer records and other information and computer software, you must not retain any copies or parts of them.

10.7 Resignation as director

- (a) Unless otherwise agreed with Australia Post, you must resign as a director of Australia Post or any Directorships at the earlier of:
 - (i) your employment ending; or
 - (ii) either party giving notice of termination of employment.
- (b) If you fail to resign as a director you irrevocably appoint the Company Secretary, or any other person nominated by Australia Post, as attorney to sign a resignation as director or other officer on your behalf.
- (c) Where (a) or (b) occurs, you have no entitlement to any compensation for loss of office.

10.8 No representations following termination of employment

You must not at any time after termination of Your employment represent to any person that you are in any way connected with or involved in the business of Australia Post.

11 Compliance and approvals

- (a) The exercise of, or compliance with, any discretion, right or obligation under this Agreement is subject to any required board or shareholder approvals, any necessary regulatory consent and compliance with the Australian Postal Corporation Act, the *Remuneration Tribunal Act 1973 (Cth)* (**Remuneration Tribunal Act**), and all other applicable laws.
- (b) If the amount of benefits payable under this Agreement would, at the time of payment, exceed the amount which would (if the Corporations Act applied to Australia Post) be at that time permitted to be paid to You under section 200G or 200F of the Corporations Act, without shareholder approval, the amount payable to You under this Agreement will be reduced so that the aggregate amount of the benefits given, paid or payable to You in connection with the termination of Your employment is equal to that maximum amount.
- (c) Notwithstanding any provision of this Agreement, Australia Post is not required to pay or provide, or procure the payment of provision, of any payment or benefit to You which are not permitted by the provisions of Part 2D.2, Division 2 or Chapter 2E of the Corporations Act (if it applied to Australia Post), the Australian Postal Corporation Act, or the Remuneration Tribunal Act, in the absence of shareholder approval or consent from the Remuneration Tribunal (as applicable).

Any such payments or benefits must be reduced to ensure compliance with this clause and there is no obligation on Australia Post to seek or obtain shareholder approval or Remuneration Tribunal consent. In the event of overpayment, You must, on receiving written notice from the Australia Post, immediately repay any monies or benefits specified in such notice and there is no obligation on Australia Post to seek shareholder approval or Remuneration Tribunal consent.

- (d) To avoid doubt, this **clause 11** has effect regardless of any other provision of this Agreement.

12 Fair Work Information Statement

Attached at Annexure C is the Fair Work Information Statement that we are obliged by law to provide to you upon commencement of your employment.

13 Interpretation

13.1 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) “includes” means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it; and
- (f) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes the person’s legal personal representatives, successors, assigns and persons substituted by novation;
 - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced; and
 - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation.

13.2 Headings

Headings do not affect the interpretation of this document.

14 General

14.1 Amendment

This document may only be varied or replaced by a document executed by the parties.

14.2 Waiver and exercise of rights

- (a) A single or partial exercise or waiver by a party of a right relating to this document does not prevent any other exercise of that right or the exercise of any other right.
- (b) A party is not liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

14.3 Rights cumulative

Except as expressly stated otherwise in this document, the rights of a party under this document are cumulative and are in addition to any other rights of that party.

14.4 Further steps

Each party must promptly do whatever any other party reasonably requires of it to give effect to this document and to perform its obligations under it.

14.5 Governing law and jurisdiction

- (a) This document is governed by and is to be construed in accordance with the laws applicable in the State in which you are employed or the State in which you were employed at the time of termination of your employment.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in the State in which you are employed or the State in which you were employed at the time of termination of your employment and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

14.6 Counterparts

This document may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

14.7 Entire understanding

- (a) This document (and the cover letter to it) contains the entire understanding between the parties as to the subject matter of this document. To the extent of any inconsistency between the cover letter and this Contract, the Contract will prevail.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this document are merged in and superseded by this document and are of no effect. No party is liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another:
 - (i) affects the meaning or interpretation of this document; or
 - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

14.8 This Contract is confidential

The terms of this Contract and any subsequent amendments are confidential and may not be disclosed by You to any other person, other than for the purpose of obtaining professional legal, financial, accounting or taxation advice, without the written approval of Australia Post.

14.9 Independent advice

You acknowledge and agree that you have been granted an opportunity to obtain independent legal, financial, accounting and taxation advice on the terms of this Contract.

Executed as an agreement.

Signed by Christine Holgate in)
the presence of:)

.....

.....
Witness

.....
Name of Witness (print)

Executed by Australian Postal)
Corporation by its duly appointed)
officer in the presence of:)

.....
Witness

.....
Name of Witness (print)

.....
Chairman

John Stanhope AM

Annexure A

Confidential information

This Confidentiality Deed is made on:

19 June 2017

by

Christine Holgate

of

1 Definitions

- (a) **Australia Post** means the Australian Postal Corporation.
- (b) **Confidential Information** means any information, however communicated or recorded, relating to Australia Post's business or the business of a Group Company to which I gain access whether before, during or after my employment with Australia Post and includes but is not limited to:
 - (i) any trade secret or other commercially sensitive or confidential information of or possessed by Australia Post or any Group Company;
 - (ii) any techniques, methods, computer software, materials, documents or manuals of Australia Post and the Group Companies used in their businesses;
 - (iii) technical information or research concerning products developed or used by Australia Post and the Group Companies and their customers or suppliers;
 - (iv) inventions, improvements or products discovered or developed by any employee, officer or consultant of Australia Post and the Group Companies;
 - (v) any information relating to the business affairs, accounts, market research, marketing plans, sales plans, customer lists, prospects, management or finances of Australia Post and the Group Companies;
 - (vi) the identity of Australia Post's and the Group Companies' customers, suppliers, consultants, distributors, agents, contractors and employees and the arrangements between Australia Post and its customers, suppliers, consultants,

distributors, agents, contractors and employees and between the Group Companies and their customers, suppliers, consultants, distributors, agents, contractors and employees; and

(vii) my terms and conditions of employment with Australia Post.

Group Company means any related body corporate of Australia Post within the meaning of the *Corporations Act 2001* (Cth).

2 Non-disclosure of Confidential Information

I undertake to keep confidential all Confidential Information and not to disclose any Confidential Information to any person, except:

- (a) as required by law;
- (b) with the prior written consent of the Australia Post Board;
- (c) to Australia Post's or a Group Company's employees, officers, agents and advisers in the proper performance of my responsibilities and duties in employment with Australia Post; and
- (d) in respect of my terms and conditions of employment with Australia Post, in confidence to my legal, taxation, accounting and financial advisers.

3 Confidential Information in the public domain

If the Confidential Information is lawfully within the public domain then, to the extent that the Confidential Information is public, my obligations under **clause 2** will cease.

4 Use of Confidential Information

I will not use any Confidential Information for the benefit of any person except Australia Post or a Group Company.

5 Security of Confidential Information

I will maintain proper and secure custody of all Confidential Information and use my best endeavours to prevent the use or disclosure of any Confidential Information by or to third parties.

6 Uncertainty

If I am uncertain as to whether certain information is Confidential Information, I will treat that information as Confidential Information unless I am advised in writing by the Australia Post Board to the contrary.

7 Return or destruction of Confidential Information

I will:

- (a) upon termination of my employment with Australia Post, or at any time at the request of Australia Post, immediately deliver to Australia Post all documents or other things in my possession, custody or control on which any Confidential Information is stored or recorded, whether in writing or in electronic or other form; or
- (b) if requested by Australia Post, instead of delivering the Confidential Information to Australia Post, destroy the Confidential Information (in the case of data stored electronically or in other form, by erasing it from the media on which it is stored such that it cannot be recovered or in any way reconstructed or reconstituted) and certify in writing to Australia Post that the Confidential Information, including all copies, has been destroyed.

8 Continuing obligations

This Confidentiality Deed is made by me in favour of Australia Post. I agree that my obligations under this Confidentiality Deed will survive the termination of my employment and will be enforceable at any time at law or in equity and will continue to the benefit of and be enforceable by Australia Post.

To avoid doubt, I acknowledge that this Confidentiality Deed is not intended to limit the duty of fidelity owed by me an implied into my employment agreement.

9 Relevant legislation

Nothing in this deed requires me to act contrary to the *Australian Postal Corporation Act 1989* (Cth) or any other relevant law.

Executed as a deed.

Signed sealed and delivered)
by **Christine Holgate** in the)
presence of:)

.....

.....
Witness

.....
Name of Witness (print)

Annexure B

Non-competition

This Restraint Deed is made on:

19 June 2017

by

Christine Holgate

of

1 Definitions

In this Restraint Deed:

Australia Post means the Australian Postal Corporation.

Confidential Information has the meaning given to that expression in the Confidentiality Deed executed by me in favour of Australia Post, dated on or about the same date as this document.

Group Company means a body corporate which is related to Australia Post within the meaning of the *Corporations Act 2001* (Cth).

Prohibited Business means a business (or part of a business) that competes with a business (or part of a business) of Australia Post or any Group Company for which during the Relevant Period I have performed duties or had responsibilities in my employment with Australia Post or in relation to which during the Relevant Period I have acquired Confidential Information.

Relevant Period means the period commencing 12 months prior to the date of termination of my employment with Australia Post.

2 Restraint

Save that nothing in this Restraint Deed restricts me from holding (either directly or indirectly) in aggregate not more than 5% of the issued ordinary shares in the capital of any body corporate listed on a recognised stock exchange and 10% of the shares in a privately-held body corporate, I will not, without the prior written consent of Australia Post (which will not be unreasonably withheld):

- (a) on my own account or for or on behalf of any person or entity:

- (i) participate in, promote, carry on, assist or otherwise be directly or indirectly concerned with or involved in, financially or otherwise (whether as a member, shareholder, unit-holder, director, consultant, advisor, contractor, principal, agent, manager, employee, beneficiary, partner, associate, trustee, financier or in any other capacity), any Prohibited Business;
 - (ii) solicit or endeavour to solicit or approach any director, officer, employee, contractor or agent of Australia Post or a Group Company with whom I had work related dealings during the Relevant Period, with the purpose of enticing that person away from Australia Post or the Group Company and procuring the employment or engagement of that person by any Prohibited Business;
 - (iii) solicit, canvass, approach or accept any approach from any person or entity who was during the Relevant Period a customer, supplier, distributor or licensee of or to Australia Post or a Group Company, with whom I had work related dealings during the Relevant Period, with a view to establishing a relationship with or obtaining the custom of that person or entity with a Prohibited Business;
 - (iv) interfere or seek to interfere, directly or indirectly, with the relationship between Australia Post or a Group Company and its customers, suppliers, distributors, licensees, officers, employees, contractors or agents in the conduct of its business;
- (b) at any time after termination of my employment with Australia Post for a period of:
- (i) six months; or if a court determines that period to be unreasonable
 - (ii) three months;
- (c) anywhere within:
- (i) Australia; or if a court determines that area to be unreasonable
 - (ii) the State in which I am employed as at the time of termination of my employment; or if a court determines that area to be unreasonable
 - (iii) the city in which I am employed as at the time of termination of my employment.

3 Construction of restraint clause

The restrictions in clause 2 are separate, distinct and several, so that the unenforceability of any restriction does not affect the enforceability of the other restrictions.

If the restrictions in Clause 2:

- (a) are void as unreasonable for the protection of Australia Post's interests; and
- (b) would be valid if part of the wording was deleted or the period or area was reduced,

the restrictions will apply with the modifications necessary to make them effective.

4 Acknowledgments

I acknowledge that:

- (a) I will obtain Confidential Information during my employment with Australia Post, the disclosure of which could materially harm Australia Post or the Group;
- (b) this Restraint Deed is made by me in favour of Australia Post;
- (c) the prohibitions and restrictions contained in this Restraint Deed are reasonable having regard to the interests of Australia Post and the Group Companies and the nature of my duties with Australia Post;
- (d) I intend the restrictions to operate to the maximum extent; and
- (e) if I breach my obligations under this Restraint Deed then, in addition and without prejudice to any other remedy which Australia Post may have, Australia Post is entitled to seek and obtain interlocutory and permanent injunctive relief in any court of competent jurisdiction.

Executed as a deed.

Signed sealed and delivered)
by Christine Holgate in the)
presence of:)

.....

.....
Witness

.....
Name of Witness (print)

Annexure C

Fair Work Information Statement

Appendix 3 A copy of my outgoing emails on the afternoon of October 22nd 2020.

Thursday, April 8, 2021 at 09:49:58 Australian Eastern Standard Time

Subject: <no subject>

Date: Thursday, 22 October 2020 at 5:36:49 pm Australian Eastern Daylight Time

From: Holgate, Christine

To: John Curtis

I have done nothing wrong. I welcome an investigation and will cooperate fully.

Christine

Page 1 of 1

Thursday, April 8, 2021 at 09:53:47 Australian Eastern Standard Time

Subject: FW: Draft Copy

Date: Thursday, 22 October 2020 at 5:40:51 pm Australian Eastern Daylight Time

From: Holgate, Christine

To: John Curtis

I have done nothing wrong. I welcome an investigation. I have offered to the Chair to take two weeks annual leave to enable an investigation to be conducted promptly.

The items involved were a recognition for 4 managers who had worked tirelessly to deliver a landmark agreement for our Post Offices. I did not receive anything personally. They were approved by the previous Chair of the Board, they were both declared and Fringe Benefits Tax was paid.

Christine

Page 1 of 1

Thursday, April 8, 2021 at 09:55:09 Australian Eastern Standard Time

Subject: FW: Draft Copy

Date: Thursday, 22 October 2020 at 5:44:45 pm Australian Eastern Daylight Time

From: Holgate, Christine

To: Pike, Andrew

I have done nothing wrong. I welcome an investigation. I have offered to the Chair to take two weeks annual leave to enable an investigation to be conducted promptly.

The items involved were a recognition for 4 managers who had worked tirelessly to deliver a landmark agreement for our Post Offices. I did not receive anything personally. They were approved by the previous Chair of the Board, they were both declared and Fringe Benefits Tax was paid.

Christine

Thursday, April 8, 2021 at 09:56:10 Australian Eastern Standard Time

Subject: Draft Copy

Date: Thursday, 22 October 2020 at 5:49:26 pm Australian Eastern Daylight Time

From: Holgate, Christine

To: Nutt. Tony

I have done nothing wrong. I welcome an investigation. I have offered to the Chair to take two weeks annual leave to enable an investigation to be conducted promptly.

Christine

Page 1 of 1

Thursday, April 8, 2021 at 09:56:59 Australian Eastern Standard Time

Subject: <no subject>
Date: Thursday, 22 October 2020 at 5:53:54 pm Australian Eastern Daylight Time
From: Holgate, Christine
To: ldibart
Attachments: image001.png

I would like to take two weeks annual leave immediately to enable you to undertake an investigation.

Please will you let me know if you approve.

Christine

Christine Holgate
Chief Executive Officer & Managing Director
Australia Post

111 Bourke Street Melbourne VIC 3000

T + 61 3

M + 61

E



Thursday, April 8, 2021 at 09:58:11 Australian Eastern Standard Time

Subject: FW: Draft Copy

Date: Thursday, 22 October 2020 at 5:57:31 pm Australian Eastern Daylight Time

From: Holgate, Christine

To: Ross Thornton

I have done nothing wrong. I welcome an investigation. I have offered to the Chair to take annual leave to enable an investigation to be conducted promptly.

Christine

Page 1 of 1

Thursday, April 8, 2021 at 09:59:18 Australian Eastern Standard Time

Subject: FW: Draft Copy

Date: Thursday, 22 October 2020 at 6:03:55 pm Australian Eastern Daylight Time

From: Holgate, Christine

To: Nutt. Tony

I have done nothing wrong. I welcome an investigation. I have offered to the Chair to take annual leave to enable an investigation to be conducted promptly.

Christine

Page 1 of 1

Thursday, April 8, 2021 at 09:59:58 Australian Eastern Standard Time

Subject: ARE you ok for me to say this

Date: Thursday, 22 October 2020 at 6:41:54 pm Australian Eastern Daylight Time

From: Holgate, Christine

To: Nutt. Tony

I have done nothing wrong. I welcome an investigation. I have offered to the Chair to take annual leave to enable an investigation to be conducted promptly.

Christine

Page 1 of 1

Thursday, April 8, 2021 at 10:00:41 Australian Eastern Standard Time

Subject: Fwd: Christine Holgate - Enquiry
Date: Thursday, 22 October 2020 at 7:04:28 pm Australian Eastern Daylight Time
From: Holgate, Christine
To: Idibart

Kind Regards,

Christine Holgate
Group Chief Executive Officer & Managing Director
Australia Post

Begin forwarded message:

From: Michelle Christensen
Date: 22 October 2020 at 18:47:55 AEDT
To: "paul.fletcher.mp@aph.gov.au" <paul.fletcher.mp@aph.gov.au>,
"matthias.cormann.mp@aph.gov.au" <matthias.cormann.mp@aph.gov.au>
Cc: "Holgate, Christine" <Christine.Holgate@auspost.com.au>
Subject: **Christine Holgate - Enquiry**

Expecting this email? If suspicious click on the 'Report Phishing' button in Outlook. If you are using a shared mailbox, forward it to
secureatpost@auspost.com.au<mailto:secureatpost@auspost.com.au>

Dear Minister Fletcher and Minister Cormann

I refer to your press release in regard to the investigation into Australia Post CEO, Christine Holgate.

Are you seriously holding an enquiry over \$12,000? \$3,000 per watch for four employees? Am I oversimplifying this????

Depending on the definition of "lucrative" is \$12,000 an unreasonable thank you bonus for the staff? If the deal was \$24K, it's unreasonable. If it is \$12M, then I don't think it is. It's no different than that someone in sales getting commission on their sales. Maybe I'd feel differently if it was a \$30K watch, but again, perspective on "lucrative".

I get that I am just a humble Australian citizen but I am more concerned with Government wasting money on an investigation than Ms Holgate acknowledging her staff and giving them a bonus. What about a "please explain" rather than a full out investigation. And again, the humble citizen is not privvy to all the machinations of government but if you think there are system and wide ranging issues within Australia Post - then go for it. But otherwise please be more frugal with our tax payer dollars. Ms Holgate is accused of spending tax payer money, is the government not doing the same?

Page 1 of 2

Appendix 4 – Letters from Australia Post on December 16th 2020.

Allens

101 Collins Street
Melbourne VIC 3000 Australia

T F www.allens.com.au

16 December 2020

Bryan Belling Belling Legal

GPO Box 1776
Melbourne VIC 3001 Australia

ABN 47 702 595 758

Allens > < Linklaters

By Email: Dear Mr Belling
Christine Holgate – Australia Post

I refer to your letter dated 8 December 2020 and our discussion on 9 December 2020.

Senate Estimates

I refer to my letter dated 3 December 2020 and confirm that Australia Post is following its usual process of reviewing the Hansard transcript for the Senate Estimates hearing on 9 November 2020 and Australia Post will consider the matters raised by Ms Holgate in its review.

Post-employment restraints

Australia Post does not agree with your assertion that the post-employment restraints that apply to Ms Holgate are unenforceable in the absence of a payment to her.

Yours sincerely

pp.

Simon Dewberry

Partner

T

Allens

101 Collins Street
Melbourne VIC 3000 Australia

T F www.allens.com.au

16 December 2020

Bryan Belling Belling Legal

GPO Box 1776
Melbourne VIC 3001 Australia

ABN 47 702 595 758

Allens > < Linklaters

By Email: *Without prejudice*

Dear Mr Belling

Christine Holgate – Australia Post

I refer to your letter dated 8 December 2020 and our discussion on 9 December 2020 about the post-employment restraints that apply to Ms Holgate.

Australia Post is willing to release Ms Holgate from the non-competition restraint under clause 2(a)(i) of the Restraint Deed at Annexure B of her employment contract if Ms Holgate signs a deed under which she:

1. agrees that she is bound by the non-solicit restraints set out below. The underlined words have been added to the existing restraint under clauses 2(a)(ii) of the Restraint Deed at Annexure B in Ms Holgate's employment contract:

a. Ms Holgate will not, on her own account or on behalf of any person or entity, anywhere in Australia, until 2 May 2021:

(i) solicit or endeavour to solicit or approach or accept any approach from any director, officer, employee, contractor or agent of Australia Post or a Group Company with whom she had work related dealings during the Relevant Period, with the purpose of enticing that person away from Australia Post or the Group Company and procuring the employment or engagement of that person by any Prohibited Business;

(ii) solicit, canvass, approach or accept any approach from any person or entity who was during the Relevant Period a customer, supplier, distributor or licensee of or to Australia Post or a Group Company, with whom she had work related dealings during the Relevant Period, with a view to establishing a relationship with or obtaining the custom of that person or entity with a Prohibited Business; and

(iii) interfere or seek to interfere, directly or indirectly, with the relationship between Australia Post or a Group Company and its customers, suppliers, distributors, licensees, officers, employees, contractors or agents in the conduct of its business;

2. agrees that she continues to bound by the confidentiality obligations set out in the Confidentiality Deed at Annexure A of her employment contract; and

3. releases the Australia Post companies and their officers and employees from all legal claims relating to her employment and the termination of her employment.

This offer is open for acceptance until 24 December 2020. Yours sincerely

pp.

Simon Dewberry

Partner

T