

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

17 October – 18 October 2012

Question: SBT 53-54

Topic: Ansett & Korda Mentha

Written: Received from Committee – 23 October 2012

Senator WILLIAMS asked:

53. A SMH article in November last year said ASIC had requested the Ansett accounts from 2001 to 2003. Did ASIC make such a request of Korda Mentha and then subsequently decide not to pursue the missing accounts?
54. I refer to a speech dated 15/3/2004 from Professor Berna Collier, the then Commissioner of ASIC. She stated that "ASIC's experience to date has shown that many external administrators are either still not familiar with the policy and class order or are not taking the necessary steps to seek an extension of time to lodge the company accounts or to defer these obligations". Given that was the view in 2004, did ASIC know that Ansett was not doing its financial reports before this was exposed in the media in November 2011? If so, why was nothing done about it?

Answer:

53. In 2004 Ansett sought financial reporting relief exempting Ansett from the requirement to lodge accounts. ASIC was aware of and considered the non-lodgement of the 2001-2003 financial reports and formed the view that the non-lodgement of accounts should not be an impediment to granting the exemption relief.
- Our regulatory guidance does not state that, to be eligible for exemption relief where members have no ongoing economic interest in the company, that all financial report lodgements must be up to date. Rather, the 'unreasonable burden' test was applied when we decided whether to grant the relief sought in the 2004 application.
- Accordingly, ASIC did not request the outstanding financial reports.
54. In 2004, Ansett sought financial reporting relief to exempt it from the requirement to lodge accounts. ASIC was aware of and considered the non-lodgement of the 2001-2003 financial reports. Accordingly, ASIC was aware in 2004 of the non-lodgement of these accounts.
- ASIC granted the exemption relief in 2004 as our policy does not require that all financial reports must be up to date, to be eligible for exemption relief where members have no ongoing economic interest in the company. Rather, the 'unreasonable burden' test was applied to decide whether relief should be granted in relation to the 2004 application.