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The Parliament of the Commonwealth of Australia

Inquiry concerning the former Member  
for Dunkley in the 44<sup>th</sup> Parliament:  
possible contempts of the House and  
appropriate conduct of a Member

House of Representatives  
Privileges and Members' Interests Committee

March 2018  
Canberra

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## Membership of the Committee

Chair            Mr Ross Vasta MP

Deputy Chair   Mr Pat Conroy MP

Members        The Hon Kevin Andrews MP

The Hon Joel Fitzgibbon MP

Mr Andrew Giles MP

Mr Ian Goodenough MP

Mr Stephen Irons MP

(Nominee of Leader of the House)

Ms Michelle Landry MP

Mrs Nola Marino MP

The Hon Warren Snowdon MP

(nominee of Deputy Leader of the  
Opposition)

The Hon Wayne Swan MP

## Committee Secretariat

Secretary Ms Claressa Surtees

Research Officers Mr Peter Banson

Administrative Officers Ms Laura Gillies

Ms Nicola Matthews



## Terms of reference

On 4 September 2017 the House referred to the Committee the following matter for inquiry and report:

Whether the former member for Dunkley, Mr Bruce Billson, by accepting an appointment as, and acting as, a paid director of the Franchise Council of Australia whilst still a member of the House gives rise either to any issues that may constitute a contempt of the House or to any issues concerning the appropriate conduct of a member having regard to their responsibilities to their constituents and to the public interest.



Two individual complaints relating to the former Member for Dunkley in the 44th Parliament—possible contempts of the House and appropriate conduct of a Member

### **Two separate but related matters before the committee**

- 1.1 The committee has been considering two formal matters, arising from the circumstances relating to the Hon Bruce Billson during his term as the Member for Dunkley in the last, 44th, Parliament.
- 1.2 The first of the matters to come before the committee was received on 15 August 2017 from the Hon Mark Dreyfus QC MP, the Member for Isaacs, who wrote to the committee citing standing order 216(a)(iv). This provision specifies that one of the reasons the committee is appointed is to '(iv) consider specific complaints about registering or declaring interests'. Mr Dreyfus asked that the committee examine:
  - Whether the former Member for Dunkley, Mr Bruce Billson, acted contrary to House resolutions on the Registration of Members' Interests.
- 1.3 Mr Dreyfus referenced media reports that Mr Billson had failed to declare on his statement of registrable interests certain matters in relation to his association with the Franchise Council of Australia Ltd (FCA) while he was a Member of the House. Mr Dreyfus provided copies of several documents in relation to the complaint.
- 1.4 Also on 15 August, the Hon Tony Burke MP, the Manager of Opposition Business, raised, as a matter of privilege in the House, concerns as to the circumstances involving Mr Billson when he was the Member for Dunkley in the last Parliament, in relation to his working for the FCA. The Speaker

reserved consideration of Mr Burke's complaint and reported to the House on it on 4 September, the first day of the next sitting week. He noted that the circumstances of the case potentially might have more to do with appropriate conduct rather than contempt. Nevertheless, the Speaker stated that he was sufficiently concerned by the matters raised to consider they should be examined by the committee, and that accordingly he would give precedence to a motion, although stressing that he had not made a determination that there is a *prima facie* case.

- 1.5 Mr Burke then proposed the following motion, which was agreed to by the House:

That the following matters be referred to the Committee of Privileges and Members' Interests:

Whether the former member for Dunkley, Mr Bruce Billson, by accepting an appointment as, and acting as, a paid director of the Franchise Council of Australia whilst still a Member of the House gives rise either to any issues that may constitute a contempt of the House or to any issues concerning the appropriate conduct of a Member having regard to their responsibilities to their constituents and to the public interest.

- 1.6 Having regard to the circumstances of the two matters in relation to Mr Billson, the committee decided to consider both matters together.

## **Conduct of the inquiry**

- 1.7 The committee resolved, on 6 September 2017, to invite Mr Billson to make a submission in relation to both matters. Together with the letter of invitation, the committee provided to Mr Billson copies of the letter and related materials the committee received from Mr Dreyfus, and copies of the terms of reference agreed to by the House together with the statement to the House by Mr Burke, the relevant *Votes and Proceedings*, Hansard reports and related materials. Mr Billson was also provided with copies of standing order 216 and two resolutions of the House, 'Registration of Members' Interests - Requirements of the House of Representatives' and 'Procedures for the protection of witnesses before the Committee of Privileges and Members' Interests'.<sup>1</sup>

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1 Refer to Appendix A.

- 1.8 The committee received an initial submission on behalf of Mr Billson and two further submissions from Mr Billson, in response to requests by the committee. Mr Billson also sent the Speaker an apology to the House, forwarding a copy of the apology to the committee.<sup>2</sup>
- 1.9 The committee invited the Franchise Council of Australia (FCA), through a letter to the Chief Executive Officer (CEO), to respond to the terms of reference as they relate to the FCA. Copies of the relevant parliamentary material and information presented to the House were provided to the FCA. A submission was received from the acting CEO, who advised the committee that the invitation to the FCA and its response had been considered at a meeting of the FCA Board.<sup>3</sup>
- 1.10 The committee received a memorandum from the Clerk of the House on the matters referred by the House to the committee.<sup>4</sup> The memorandum sets out the general provisions relating to privilege and contempt and references relevant to the matters before the committee, and summarises precedents from the House of Representatives and the Houses of Commons of the United Kingdom and Canada.
- 1.11 The committee also examined Mr Billson’s statement of interests in the 44th Parliament.
- 1.12 In conducting its inquiry, as usual, the committee exercised its responsibilities to the House of Representatives independently of any other processes and in accordance with applicable parliamentary law and rules.<sup>5</sup>

## **Substance of the two individual complaints**

### **Complaint in relation to registration of Members’ interests**

- 1.13 Standing order 216 provides for the appointment of the Committee of Privileges and Members’ Interests and for certain functions of the

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2 Refer to Appendix C.

3 Refer to Appendix C.

4 Refer to Appendix B.

5 As the subject of criminality has been referred to in the course of the inquiry, for completeness only it is noted that should any conduct, by a Member as a receiver of a benefit for services, or other party as an offeror of a benefit for services, raise issues under the criminal law, such a matter would be dealt with by the respective court as a separate and independent judicial matter.

committee. In relation to the complaint by the Member for Isaacs, Mr Dreyfus, the relevant provision is:

**216**

(a) A Committee of Privileges and Members' Interests shall be appointed to:

...

(iv) consider specific complaints about registering or declaring interests; ...

1.14 In his letter of 15 August 2017, Mr Dreyfus asked that the committee examine whether Mr Billson acted contrary to House resolutions on the registration of Members' interests when he was the Member for Dunkley.

1.15 Mr Dreyfus referred to media reports that Mr Billson had failed to declare on his statement of registrable interests that while he was still a Member of the House he was appointed as a director of a lobby group, the Franchise Council of Australia Ltd (FCA), on 9 March 2016, and that he began receiving a salary of \$75,000 per annum in respect of that position.

### **Complaint raised as a matter of privilege in the House**

1.16 Standing order 51 provides that a Member may raise a matter of privilege and be prepared to move a motion to refer the matter to the Committee of Privileges and Members' Interests. The Speaker may reserve the matter or give the matter precedence and invite the Member to move a certain motion of referral.

1.17 In raising the matter in the House on 15 August, Mr Burke, Manager of Opposition Business, posed concerns as to whether the conduct of Mr Billson when he was the Member for Dunkley, and the circumstances surrounding his being paid secretly as a director of the FCA whilst still a Member of the House gave rise to any issues which may constitute contempt of the House. Mr Burke identified several potential issues:

- whether Mr Billson's conduct as a Member of the House was influenced by the payments he received from the FCA;
- whether he advocated for or sought to advance the interests of the FCA while a Member because of the payments from the FCA;
- whether he sought to influence the conduct of other Members to benefit the FCA because of the payments from the FCA; and
- whether the FCA sought to influence Mr Billson in his conduct as a Member through its payments to him.

## **Matter examined under registration of Members' interests resolutions**

1.18 The essential task for the committee in determining the complaint raised under SO 216(a)(iv) as to whether Mr Billson acted contrary to the resolutions on the registration of Members' interests, is to examine three questions:

- Were the issues raised in the complaint in relation to Mr Billson's registrable interests within the meaning of clause (2) of the resolutions of the House?
- Did the resolutions of the House apply to Mr Billson at the time the issues arose? and
- Did Mr Billson provide to the Registrar of Members' Interests a statement of registrable interests, in accordance with the requirements specified in clause (1) of the resolutions?

1.19 Under clause (2) of the resolutions Members are directed to include in their statements registrable interests covering a range of matters. In considering the matters set out in Mr Billson's submissions to the committee, as summarised below, several paragraphs in the resolutions appear to be of relevance, including:

- b) family and business trusts and nominee companies;
- d) registered directorships of companies;
- j) the nature of any other substantial sources of income; and
- n) any other interests where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise.

### **Mr Billson's submissions to the committee**

1.20 In November 2015, Mr Billson announced that he would be retiring from Parliament, and he ceased to be a Member of the House on 9 May 2016 when the House of Representatives was dissolved, together with the Senate, prior to the general election, for all Members of both Houses. In his submissions to the committee Mr Billson confirms that he was a Member of the House when he commenced his engagement on a part-time basis as Executive Chairman and independent director of the FCA on 9 March 2016 and that he received one payment for this employment on 13 April 2016, while a Member, of \$6,250, from an annual salary of \$75,000. The

FCA referred to Mr Billson's appointment in a media release of 28 March 2016.<sup>6</sup>

- 1.21 Mr Billson also stated in his submissions that he had received payment for the provision of 'advisor services' through Agile Advisory Pty Ltd, of which he was the founder and sole director. Mr Billson had previously disclosed on his statement of interests, in 2015, that Agile Advisory had been activated as the trading entity of the Billson Family Trust. Although he did not provide details to the committee as to the timing of the payment in 2016, Mr Billson acknowledged 'that a further timely disclosure of this to the register was required before the Parliament was dissolved. However, due to an oversight, this disclosure was not made.'
- 1.22 Mr Billson's submission stated that the FCA is a non-profit organisation 'constituted to represent the interests of ... members'. The FCA's own constitution states that the objects of the company are, amongst others, 'to advance public knowledge and understanding of the Franchise Sector, the practices of public authorities regulating the Franchise Sector and the attitude of governments towards the Franchise Sector'.<sup>7</sup>

## Registrable interests

- 1.23 The committee concludes that the interests of Mr Billson, summarised above, both those raised in the complaint and the self-identified payment through Agile Advisory, were registrable interests within the meaning of clause (2) of the resolutions of the House. It is noted that Mr Billson accepts such a characterisation of these interests.

## Application of the resolutions to Mr Billson

- 1.24 Mr Billson accepts that these interests all arose while he was a Member of the House, and in relation to the FCA interests, the details in relation to timing of events provided in Mr Billson's submissions to the committee support such a conclusion. The committee finds that at the time the issues arose, Mr Billson was a Member of the House and concludes that the resolutions of the House applied to Mr Billson at that time.

## Mr Billson's statement of registrable interests

- 1.25 The committee inspected Mr Billson's statement of registrable interests for the 44th Parliament and noted that, in accordance with clause (1) of the resolutions, he had made an initial statement at the commencement of the Parliament and he had made statements of alterations on subsequent
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6 Refer to Appendix C.

7 Refer to <<https://www.franchise.org.au/>> last accessed 1 December 2017.

occasions, including on 1 December 2015 and 7 March 2016. However, no alterations made during the months prior to the end of the Parliament stated the interests identified above – Mr Billson’s engagement on 9 March 2016 as Executive Chairman and independent director of FCA, receipt on 13 April 2016 of payment, of \$6,250, from FCA or receipt of payment for ‘advisor services’ through Agile Advisory. The lack of inclusion of these interests is confirmed by Mr Billson’s submissions to the committee that through oversight, these items were not included in his statement of registrable interests.

- 1.26 The committee notes that it was part of the original submissions from Mr Billson that as 28 days (the period within which a Member must report a change in interests occurring, under the terms of the resolutions) had not elapsed, since he received the payment from FCA on 13 April and the House being dissolved on 9 May, he was not in breach of this aspect of the resolutions. However, the committee acknowledges that in his later letter of apology to the House Mr Billson wrote that he should have made a timely declaration of the payment he received from FCA for his role as a director and part-time Executive Chairman.
- 1.27 It is the committee’s view that Mr Billson failed to provide to the Registrar statements of registrable interests in respect of three substantive alterations:
- his engagement as Executive Chairman and independent director of FCA, on 9 March 2016;
  - his receipt of payment by FCA related to that engagement, on 13 April; and
  - his receipt of payment for advisor services through Agile Advisory, at a date unknown to the committee, but a date which Mr Billson acknowledges required him to make a disclosure.
- 1.28 The committee observes that the conduct of a Member which fails to meet obligations under resolutions of the House, falls below the standards expected of Members and does not reflect well upon the Member.

## Contempt arising under resolution of the House

- 1.29 The resolutions on the registration of Members’ interests establish the circumstances in which a Member could be found guilty of contempt. Of relevance to Mr Billson’s circumstances is paragraph (b) of the additional resolution adopted 13 February 1986, which provides:

That any Member of the House of Representatives who ...

(b) knowingly fails to notify any alteration to those interests to the Registrar of Members' Interests within 28 days of the change occurring ...

shall be guilty of a serious contempt of the House of Representatives and shall be dealt with by the House accordingly.

1.30 As Mr Billson has demonstrably failed to notify the Registrar of alterations to his interests within 28 days of changes occurring, there is a prima facie case that he is guilty of contempt.

1.31 In relation to the House of Representatives, for conduct to be a contempt it must meet the requirements of s. 4 of the *Parliamentary Privileges Act 1987*, which imposes a significant qualification. Section 4 provides:

Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a member of the member's duties as a member.

1.32 In determining whether Mr Billson is guilty of contempt in this case, the committee must examine the question:

- Whether Mr Billson's conduct, in failing to notify the Registrar of alterations to his interests within 28 days of changes occurring, amounts, or is intended or likely to amount, to an improper interference with the free exercise by the House of its authority or functions?

### Mr Billson's failure to notify alterations

1.33 In his submissions, Mr Billson has stated that his failure to notify the Registrar of alterations to his interests within 28 day of changes occurring was an 'administrative error and oversight'. This acknowledgement with an express apology for 'the discourtesy to the House this represents' was included in a letter of apology to the House from Mr Billson to the Speaker:

I formally write to you, and through you to the House, to convey my sincere apologies for my failure to adequately uphold my obligations as a Member, as required by the House resolution, in relation to the timely declaration of registrable interests in the 44<sup>th</sup> parliament.<sup>8</sup>

## Committee's conclusions

- 1.34 The committee has considered Mr Billson's failure to comply with requirements in relation to his registrable interests when he was the Member for Dunkley, his three submissions to the committee and subsequent apology to the House. The committee accepts Mr Billson's comments that he failed to comply due to error and oversight, as evidence that he did not intend to interfere improperly with the free exercise of the authority or functions of the House.
- 1.35 The committee finds that Mr Billson's conduct does not meet the requirements necessary for conduct to constitute a contempt under s. 4 of the Parliamentary Privileges Act.
- 1.36 The committee concludes that in relation to the complaint raised by the Member for Isaacs, Mr Dreyfus, although Mr Billson had failed to notify the Registrar of Members' Interests of alterations to his interests within 28 days of changes occurring when he was the Member for Dunkley in the 44th Parliament, in the circumstances, this conduct did not constitute contempt.
- 1.37 The committee concludes that Mr Billson's submissions and apology acknowledge the authority of the House in relation to the Register of Members' Interests and the obligations of Members to respect that authority by continuing to comply with the requirements of the Register, even as the Member is preparing to retire from the House.

## Matter of privilege referred by the House

- 1.38 The essential task for the committee in determining the referral from the House is to examine the conduct of Mr Billson and the action of the FCA. The first aspect of the reference raises two related propositions:
- Does Mr Billson's conduct in accepting an appointment as, and acting as, a paid director of the FCA whilst still a Member of the House give rise to issues which might constitute a contempt of the House? Is there a clear connection between his acceptance of the payment and his actions in performing his parliamentary duties?
  - Does the action of the FCA in appointing and paying Mr Billson, while he was still a Member of the House give rise to issues which might constitute a contempt of the House? Is there a clear intention by the FCA in offering payment to Mr Billson that he was to use his position and influence as a Member on behalf of the FCA?

- 1.39 If the answer to the first question about Mr Billson's conduct is 'no', then the committee must examine the alternative aspect of the reference in relation to Mr Billson and the further proposition:
- Does Mr Billson's conduct nevertheless give rise to issues concerning the appropriate conduct of a Member, having regard to the responsibilities of Members to their constituents, and to the public interest?

### General definition of contempt

- 1.40 The Clerk's memorandum cites as authoritative the definition of contempt from the United Kingdom volume of parliamentary practice, *May*:

... any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.<sup>9</sup>

- 1.41 As referred above, in relation to the House of Representatives, for conduct to be a contempt it must meet the requirements of s. 4 of the *Parliamentary Privileges Act 1987*, which provides:

Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a member of the member's duties as a member.

### Possible contempts relating to benefit to a Member for services

- 1.42 Matters to do with the personal and pecuniary interests of Members are governed by precedent and practice established in accordance with the Australian Constitution, standing orders and resolutions of the House.<sup>10</sup>

- 1.43 The Clerk's memorandum cites *House of Representatives Practice* as noting that corruption in connection with the performance of a Member's duties as a Member could be punished as a contempt. Of particular relevance to the current circumstances is the following extract from *May*:

The acceptance by a Member of either House of a bribe to influence him in his conduct as a Member, or of any fee, compensation or reward in connection with the promotion of or

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9 Refer to Appendix B.

10 *House of Representatives Practice*, 6th ed., Canberra 2012, at p. 142.

opposition to any bill, resolution, matter or thing submitted or intended to be submitted to either House, or to a committee is a contempt.

1.44 In relation to lobbying for reward or consideration, the Clerk's memorandum again cites *May* :

... no Members of the House shall, in consideration of any remuneration, fee, payment, reward or benefit in kind, direct or indirect, ... advocate or initiate any cause or matter on behalf of any outside body or individual; or urge any Member of either House of Parliament, including Ministers, to do so, by means of any speech, Question, Motion, introduction of a bill, or amendment to a Motion or Bill.<sup>11</sup>

1.45 The seriousness with which such conduct by a Member of the House would be viewed, is reflected in s. 45 of the Constitution, which provides for the disqualification of a Member or Senator who, amongst other things, renders services for reward or consideration in the Parliament to any person:

45. If a senator or member of the House of Representatives –

...

(iii) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State:

his place shall thereupon become vacant.

1.46 The Clerk's memorandum also notes a reference in *House of Representatives Practice* that the offering of bribes to Members to influence them in their parliamentary conduct is a contempt.<sup>12</sup>

### Issues raised in complaint to the House

1.47 In his complaint to the House, Mr Burke raised a number of concerns due to Mr Billson's appointment as a director of the FCA and the attendant receipt of a salary of \$75,000 per annum, while he was the Member for Dunkley. Mr Burke identified concerns in relation to Mr Billson's conduct as a Member:

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11 As cited in *House of Representatives Practice*, op. cit., at p. 753.

12 *House of Representatives Practice*, op. cit., at p. 754.

... whether any contributions he made in debates in the House may have matched public positions held by the Franchise Council of Australia; whether Mr Billson advocated for, or sought to advance, the interests of the Franchise Council of Australia while a member of the House, owing to the payments he received from the Franchise Council of Australia; whether Mr Billson sought to influence the conduct of other members or ministers to benefit the Franchise Council of Australia, owing to the payments he received from this lobby group; ...<sup>13</sup>

1.48 Mr Burke identified concerns also, in relation to the FCA:

... whether the Franchise Council of Australia, through its payments, sought to influence Mr Billson in his conduct as a member of the House both in and outside of the chamber.

1.49 Mr Burke referred to specific dates and occasions on which Mr Billson had made comments which Mr Burke stated were of concern. He proposed that two separate contempts needed to be considered:

- whether Mr Billson's conduct amounts to lobbying for reward or consideration such as to constitute a contempt of the House; and
- whether the FCA, or any of its staff or directors has, by appointing and paying Mr Billson as a director while he was still a Member of the House, sought to bribe a Member of the House such as to constitute a contempt of the House.

### Mr Billson's submissions to the committee

1.50 In his submissions to the committee Mr Billson refutes allegations that he was promoting the interests of the FCA or that his appointment by the FCA influenced his conduct as a Member of the House. Mr Billson states that his comments supporting amendments to the Competition and Consumer Act are entirely consistent with his publicly stated position on those matters and that he held such views long before his appointment by the FCA. He argues this demonstrates that his appointment had no effect on his conduct as a Member.<sup>14</sup>

1.51 In support of his argument Mr Billson provided evidence of statements he had made prior to his appointment by the FCA, in which he had used specific expressions Mr Burke identified as demonstrating that Mr Billson was promoting the interests of the FCA. The specific expressions are, 'energise enterprise', 'small business and family enterprise ombudsman' and 's. 46 of the Competition and Consumer Act'.

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13 Refer to Appendix A, *House of Representatives Hansard* 15 August 2017, p. 8496.

14 Refer to Appendix C.

- 1.52 Mr Billson states in his submissions that his FCA appointment had no bearing on his duties as a Member of the House, and that his comments following his appointment:
- were general in nature and not designed to impact on public policy;
  - in relation to s. 46 of the Competition and Consumer Act, were entirely consistent with all comments prior to his appointment; and
  - demonstrated no change in his position on any public policy issues from the time prior to his appointment.
- 1.53 Mr Billson stated further that the FCA at that time was ambivalent in relation to both, the establishment of a small business and family enterprise ombudsman and to the proposed change to s. 46 of the Competition and Consumer Act. Further, Mr Billson states that the FCA had no dialogue with him on the matter at any stage.

#### **Franchise Council of Australia's submission to the committee**

- 1.54 While the FCA canvassed other matters in its submission to the committee, in relation to the complaints relating to the FCA, it stated that the 'role of the Chief Executive Officer of the FCA (not the Executive Chair) is to handle industry representation, including dealing with State and Federal parliamentarians and regulators'. At the time of Mr Billson's appointment as Executive Chair, there were no industry policy issues of interest to the FCA, and Mr Billson was to have a role in assisting with the appointment of a new Chief Executive Officer. It stated further:
- The primary role of the Executive Chair is to assist the FCA Board in its operations and effectiveness and provide an improved connection between the Board on the one hand, and the Chief Executive Officer and the FCA's executive staff on the other. Other key priorities are to support the FCA office in preparations for the Association's national convention, through the executive team shape the FCA's annual budget and raise and enhance the public profile of franchising and the FCA.<sup>15</sup>
- 1.55 The FCA submission stated that although 'the FCA turned its mind to the utility of having a Chair with a political past, there was no imperative for an appointment to assist in representations to Government'. The FCA argues that there was 'never any motivation to appoint Mr Billson to seek to influence the House, nor any activities conducted by Mr Billson at the FCA's behest'. It was Mr Billson's consistent position and advocacy about
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15 Refer to Appendix C.

how best to support the small business and family enterprise community and to ensure a competitive environment supporting respect that appealed to the FCA.

- 1.56 In relation to the complaint to the House by Mr Burke, the FCA stated that it 'completely and comprehensively rejects the accusations directed at it and considers such accusations to be baseless and reckless'.

### Media reports in relation to this matter

- 1.57 The committee notes that both Mr Billson and the FCA refer to media reports of some aspects of what occurred during the relevant period, and also notes that the initial complaint to the House cited media reports. While matters might at times be widely reported in the media, the information media reports contain can be indicative at best and the committee gives no material weight to them, in any respect. Parliamentary proceedings are formal in essence, including proceedings of this committee. As such they rely on formal, definite statements, such as those made to the House or to the committee, and not on information of events or views from other informal sources, no matter how widely publicised they might be.

### Committee's conclusions in relation to contempts

- 1.58 The committee regards Mr Billson's acceptance of payment for services to represent the interests of an organisation, while he was the Member for Dunkley, as being in the nature of an interest 'where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise'.
- 1.59 The committee notes that Mr Billson denies completely any implication of improper conduct as identified in the complaint to the House.
- 1.60 It is a matter of record that payment was made by the FCA and received by Mr Billson while he was the Member for Dunkley. However, it is of material importance that no evidence has been presented to the committee which would establish that there is a clear direct or indirect connection between Mr Billson's acceptance of director's fees and his actions in performing his parliamentary duties.
- 1.61 Similarly, the FCA denies any implication of improper conduct in employing Mr Billson while he was still a Member of the House, and nor is there any evidence that the FCA had intended to improperly influence Mr Billson in the free performance of his duties as a Member.
- 1.62 The committee concludes that having regard to all the circumstances of this case and, in particular to the fact that it has received no clear evidence that Mr Billson had been improperly influenced in the performance of his duties as a Member, or that the FCA intended to improperly influence

Mr Billson, as then Member for Dunkley, in the performance of his duties as a Member that no finding of contempt could be made in respect of either Mr Billson or the FCA.

## Issues concerning appropriate conduct as a Member

- 1.63 As referred above, as the committee has found that the issues referred by the House do not constitute contempt, the committee now must examine the alternative aspect of the reference in relation to Mr Billson:
- Does Mr Billson’s conduct nevertheless give rise to issues concerning the appropriate conduct of a Member, having regard to the responsibilities of Members to their constituents, and to the public interest?
- 1.64 The essential task for the committee in resolving this question is to first identify what might be ‘appropriate conduct of a Member having regard to their responsibilities to their constituents and to the public interest’ and then to compare the current circumstances to that standard.
- 1.65 *House of Representatives Standing Orders* cover many aspects of behaviour of Members when they are in the chambers and they can be used to enforce appropriate standards of behaviour. However, there is no broader code of conduct to address the conduct of Members generally. While proposals for a code of conduct for Members, and Senators, have been considered from time to time there is no code of conduct expected of Australia’s national parliamentarians. The committee notes that this situation is in contrast to comparable national parliaments. The Clerk’s memorandum records that matters involving impropriety in office by a Member and paid advocacy on behalf of others, or lobbying, at the House of Commons in each of the United Kingdom and Canada, are now dealt with under a members’ code of conduct.
- 1.66 The absence of an applicable code of conduct for Members of this House, with attendant standards of behaviour, is no impediment to the House making decisions about the conduct of Members, and nor does it impede the committee from making recommendations to the House in this regard. However, the committee must decide what might be reasonable standards of ‘appropriate conduct’ to be met by a Member in these circumstances.

## Standards applying to ministers

1.67 Since the 1990s, there have been two additional sets of standards which apply to government ministers, and former ministers, the 'Statement of Ministerial Standards' and the 'Lobbying Code of Conduct'.<sup>16</sup> On 10 August 2017, the Member for Watson, Mr Burke asked a question of the Prime Minister in relation to Mr Billson and aspects of the circumstances now being considered by the committee:

The Prime Minister's ministerial standards prohibit former ministers from lobbying members of parliament on any matter relevant to their previous portfolio within 18 months after ceasing to be a minister. Bruce Billson ceased to be small business minister in September 2015. Reports now confirm that MPs were lobbied by him as soon as he was appointed to the Franchise Council in March 2016. Has the Prime Minister taken any action in relation to what is an obvious breach of ministerial standards?

1.68 The Prime Minister responded that he would raise the matter with the secretary of his department to investigate, and on 4 September, the secretary, Dr Martin Parkinson, wrote to the Prime Minister saying that he had made inquiries of Mr Billson and that he had 'no reason to conclude Mr Billson has breached either the Statement of Ministerial Standards or the Lobbying Code of Conduct'.

1.69 The committee notes this response and that the investigation and its conclusion addressed a complaint raised in relation to Mr Billson's obligations deriving from his responsibilities as a former minister of the executive government. However, Mr Billson's responsibilities as a one time member of the executive government are not particularly relevant in terms of the committee's inquiry.

1.70 The 'Lobbying Code of Conduct' and the 'Statement of Ministerial Standards' rely on relatively narrow definitions applying to ministers and former ministers, and not to Members more generally. The terms of reference before the committee are in essence about the conduct of a Member of the House and the attendant duty, responsibilities and obligations of a Member in that capacity.

## Standards applying to members

1.71 As referred above, the Clerk's memorandum guides the committee towards the UK House of Commons resolution relating to lobbying for reward or consideration in the parliamentary context. Lobbying by a

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16 Copies of these two executive government standards are available from the website of the Department of Prime Minister and Cabinet < <https://www.pmc.gov.au/resource-centre> >

Member means to advocate or initiate a cause or matter on behalf of an outside interest, or to urge another Member to do so, by means of a speech, question, motion, bill or amendment, in consideration of a direct or indirect fee, payment, reward or benefit.<sup>17</sup>

- 1.72 *House of Representatives Practice* records the earlier proposals for a code of conduct for Members of the House.<sup>18</sup> In 2011, the committee presented to the House a discussion paper with a draft code of conduct for Members, which outlines the minimum standards of behaviour the Australian people have a right to expect of their elected representatives. The draft code guided Members to have regard to sections 44 and 45 of the Constitution, acknowledged the significance of the issue of lobbying for reward and had six key principles, including:

5. Primacy of the Public Interest

Members must base their conduct on a consideration of the public interest, avoid conflict between personal interests and the requirements of public duty, and resolve any conflict, real or apparent, quickly and in favour of the public interest.

Members must exercise the influence gained from their public office only to advance the public interest. They must not obtain improperly any property or benefit, whether for themselves or another. They also must not seek to affect improperly any process undertaken by officials or members of the public.

6. Personal Conduct

Members must ensure that their personal conduct is consistent with the dignity of the Parliament. They should act at all times in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Parliament and its Members.<sup>19</sup>

- 1.73 The draft code of conduct has not been adopted by the House but it nevertheless provides excellent guidance for this committee about how to consider the issue of what might be regarded as 'appropriate conduct' of a Member. Just as Members in making their statements and alterations of registrable interests, under the resolutions of the House, must apply their

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17 Refer to Appendix B.

18 *House of Representatives Practice*, op. cit., at p. 148.

19 Standing Committee of Privileges and Members' Interests, *Draft code of conduct for Members of Parliament, discussion paper*, November 2011, at Appendix 5, pp. 76-77.

judgment in deciding what to include, so too a Member must apply their judgment in relation to their conduct as a Member.

### **Committee's conclusions in relation to appropriate conduct of a Member**

- 1.74 The committee considers that it is appropriate conduct for every Member of the House, even one who has announced an intention to resign from the House, to continue to declare their personal and pecuniary interests in accordance with the resolutions and standing orders of the House. The current arrangements rely on self-identification by each Member because their personal knowledge of their own interests and circumstances is the only realistic means of capturing all relevant interests. Clearly, individual judgment is brought to bear on the decisions a Member makes in relation to declarations, and decisions should be taken in order to avoid misunderstandings and perceived conflicts of interest.
- 1.75 When the details of an arrangement or interest are not appropriately declared there is no transparency and lack of transparency can create doubt as to the integrity of a person's conduct. In relation to a Member, doubt as to integrity is likely to lead to damage to reputation of the individual Member, of parliamentarians more broadly and of the institution of the Parliament.
- 1.76 The committee considers that avoiding any real or apparent conflict between a Member's personal interests and the requirements of public duty, means that it is not appropriate conduct for a Member to commence paid employment with an organisation, which has as an objective influencing government policy, prior to that individual's actual resignation as a Member. Of key concern is that matters related to the business of that organisation could be before the House.
- 1.77 The committee concludes that Mr Billson had misunderstood his obligations to the House as a Member. Despite the efforts of the committee now in explaining to him the primacy of the public interest in relation to a Member's work efforts, Mr Billson is choosing to ignore the committee's explanation of those obligations to him. The committee's view is that it would have been more appropriate for Mr Billson not to accept paid employment with the FCA while he was a Member of the House and to wait until after he had ceased to be a Member to take on that role. His decision to accept the role with FCA while he was a Member falls below the standards expected of a Member of the House.
- 1.78 It is of considerable concern to the committee that a Member of the House should so manifestly misunderstand the potential for concerns about appropriate conduct when accepting paid outside employment while still

a Member. The committee intends to take this opportunity to educate all Members of the House about their obligations to the House to avoid any similar potential misunderstandings by Members in future.

- 1.79 The committee concludes that this particular issue should be addressed by including an express provision in the standing orders of the House to prohibit a Member from engaging in lobbying services for reward while still a Member of the House. The committee does not wish to reconsider the general matter of a code of conduct at this time as a response to this particular case. However, if conduct of this nature is more prevalent, the committee concludes that the matter of a code of conduct for Members should be reconsidered.

## Recommendations

### **Recommendation 1**

The committee recommends that Mr Billson be censured for his conduct when he was the Member for Dunkley prior to the dissolution of the House of Representatives at the end of the 44th Parliament, by the passage of the following motion:

The House censures the former member for Dunkley, Mr Bruce Billson, for failing to discharge his obligations as a Member to the House in taking up paid employment for services to represent the interests of an organisation while he was a Member of the House, and failing to fulfil his responsibilities as a Member by appropriately declaring his personal and pecuniary interests, in respect of this paid employment, in accordance with the resolutions and standing orders of the House.

## **Recommendation 2**

The committee recommends that the standing orders be amended to include an express prohibition on a Member engaging in services of a lobbying nature for reward or consideration while still a Member of the House of Representatives.

Mr Ross Vasta MP  
Chair  
March 2018



## **Appendix A – Parliamentary material**



## **Registration of Members' interests**

### **Requirements of the House of Representatives**

*Resolution adopted 9 October 1984 a.m., amended 13 February 1986, 22 October 1986, 30 November 1988, 9 November 1994, 6 November 2003 and 13 February 2008 a.m.*

#### **(1) Registration of Members' interests**

That—

- (a) within 28 days of making and subscribing an oath or affirmation as a Member of the House of Representatives each Member shall provide to the Registrar of Members' Interests, a statement of—
  - (i) the Member's registrable interests, and
  - (ii) the registrable interests of which the Member is aware
    - (a) of the Member's spouse and (b) of any children who are wholly or mainly dependent on the Member for support,

in accordance with resolutions adopted by the House and in a form determined by the Committee of Members' Interests or by the Committee of Privileges and Members' Interests from time to time, and shall also notify any alteration of those interests to the Registrar within 28 days of that alteration occurring, and
- (b) the statement to be provided by a Member shall include:
  - (i) in the case of a Member who was not a Member of the House of Representatives in the immediately preceding Parliament, interests held at the date of his or her election and any alteration of interests which has occurred between that date and the date of completion of the statement, and
  - (ii) in the case of a Member who was a Member of the House of Representatives in the immediately preceding Parliament, interests held at the date of dissolution of the House of Representatives in the previous Parliament and any alteration of interests which has occurred between that date and the date of completion of the statement.

#### **(2) Registrable interests**

That the statement of a Member's registrable interests to be provided by a Member shall include the registrable interests of which the Member is aware (1) of the Member's spouse and (2) of any children

who are wholly or mainly dependent on the Member for support, and shall cover the following matters:

- (a) shareholdings in public and private companies (including holding companies) indicating the name of the company or companies;
- (b) family and business trusts and nominee companies –
  - (i) in which a beneficial interest is held, indicating the name of the trust, the nature of its operation and beneficial interest, and
  - (ii) in which the Member, the Member's spouse, or a child who is wholly or mainly dependent on the Member for support, is a trustee (but not including a trustee of an estate where no beneficial interest is held by the Member, the Member's spouse or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust;
- (c) real estate, including the location (suburb or area only) and the purpose for which it is owned;
- (d) registered directorships of companies;
- (e) partnerships indicating the nature of the interests and the activities of the partnership;
- (f) liabilities indicating the nature of the liability and the creditor concerned;
- (g) the nature of any bonds, debentures and like investments;
- (h) saving or investment accounts, indicating their nature and the name of the bank or other institutions concerned;
- (i) the nature of any other assets (excluding household and personal effects) each valued at over \$7,500;
- (j) the nature of any other substantial sources of income;
- (k) gifts valued at more than \$750 received from official sources, or at more than \$300 where received from other than official sources provided that a gift received by a Member, the Member's spouse or dependent children from family members or personal friends in a purely personal capacity need not be registered unless the Member judges that an appearance of conflict of interest may be seen to exist;
- (l) any sponsored travel or hospitality received where the value of the sponsored travel or hospitality exceeds \$300;
- (m) membership of any organisation where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise, and
- (n) any other interests where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise.

### (3) Register and Registrar of Members' Interests

That—

- (a) at the commencement of each Parliament, and at other times as necessary, Mr Speaker shall appoint an officer of the Department of the House of Representatives as the Registrar of Members' Interests and that officer shall also assist the Committee of Privileges and Members' Interests in relation to matters concerning Members' interests;
- (b) the Registrar of Members' Interests shall, in accordance with procedures determined by the Committee of Privileges and Members' Interests, maintain a Register of Members' Interests in a form to be determined by that committee from time to time;
- (c) as soon as possible after the commencement of each Parliament the chairman of the Committee of Privileges and Members' Interests shall table in the House a copy of the completed Register of Members' Interests and shall also table from time to time as required any notification by a Member of alteration of those interests, and
- (d) the Register of Members' Interests shall be available for inspection by any person under conditions to be laid down by the Committee of Privileges and Members' Interests from time to time.

*Additional resolution adopted 13 February 1986*

That any Member of the House of Representatives who—

- (a) knowingly fails to provide a statement of registrable interests to the Registrar of Members' Interests by the due date;
- (b) knowingly fails to notify any alteration of those interests to the Registrar of Members' Interests within 28 days of the change occurring, or
- (c) knowingly provides false or misleading information to the Registrar of Members' Interests,

shall be guilty of a serious contempt of the House of Representatives and shall be dealt with by the House accordingly.

**Note:** no reference has been made to—

- (a) earlier registration and declaration requirements deleted on 13 February 1986, 22 October 1986, 30 November 1988 and 9 November 1994, *and*
- (b) resolutions of 21 March 1985 and 13 February 1986 which related to the lodgement of initial statements of interests by Members of the 34th Parliament.

## **Procedures for the protection of witnesses before the Committee of Privileges and Members' Interests**

*Resolution adopted 25 November 2009*

That in considering any matter referred to it which may involve, or give rise to any allegation of, a contempt, the Committee of Privileges and Members' Interests shall observe the procedures set out in this resolution, in addition to any procedures adopted by the House for the protection of witnesses before committees. Where this resolution is inconsistent with any such procedures adopted by the House for the protection of witnesses, this resolution shall prevail to the extent of the inconsistency.

- (1) Any person who is the subject of proposed investigation by the committee must be notified in advance of the specific nature of the allegations made against them, preferably formulated as a specific charge, or if this is not possible, of the general nature of the issues being investigated, in order to allow them to respond.
- (2) The committee shall extend to that person all reasonable opportunity and time to respond to such allegations and charges by:
  - (a) making written submission to the committee;
  - (b) giving evidence before the committee;
  - (c) having other evidence placed before the committee; and
  - (d) having witnesses examined before the committee.
- (3) Where oral evidence is given containing any allegation against, or reflecting adversely on, a person, the committee shall ensure that that person is present during the hearing of that evidence, subject to a discretion to exclude the person when proceedings are held in private, and shall afford all reasonable opportunity for that person, by counsel or personally, to examine witnesses in relation to that evidence.
- (4) A person appearing before the committee may be accompanied by counsel, and shall be given all reasonable opportunity to consult counsel during that appearance.
- (5) A witness shall not be required to answer in public session any question where the committee has reason to believe that the answer may incriminate the witness.

- (6) Witnesses shall be heard by the Committee on oath or affirmation.
- (7) Hearing of evidence by the committee shall be conducted in public session, except where the committee determines, on its own initiative or at the request of a witness that the interests of the witness or the public interest warrant the hearing of evidence in private session.
- (8) The committee may appoint counsel to assist.
- (9) The committee may authorise, subject to rules determined by the committee, the examination by counsel of witnesses before the committee.
- (10) As soon as practicable after the committee has determined findings to be included in the committee's report to the House, and prior to the presentation of the report, a person affected by those findings shall be acquainted with the findings and afforded all reasonable opportunity to make submissions to the committee, in writing and orally, on those findings. The committee shall take such submissions into account before making its report to the House.
- (11) If the committee determines to make a recommendation to the House on a penalty to be imposed on a person, the person affected shall be afforded all reasonable opportunity to make submissions to the committee, in writing and orally, in relation to the proposed penalty. The committee shall take such submissions into account before making its report to the House.
- (12) The committee may consider the reimbursement of costs of representation of witnesses before the committee. Where the committee is satisfied that a person would suffer substantial hardship due to liability to pay the costs of representation of the person before the committee, or in the interests of justice, the committee may make reimbursement of all or part of such costs as the committee considers reasonable.
- (13) A member who has instigated an allegation of contempt or who is directly implicated in an allegation, shall not serve as a member of the committee for any inquiry by the committee into that matter.
- (14) Before appearing before the committee a witness shall be given a copy of this resolution.

## Extract from Standing Orders

### 216 Committee of Privileges and Members' Interests

- (a) A Committee of Privileges and Members' Interests shall be appointed to:
  - (i) inquire into and report on complaints of breach of privilege or contempt which may be referred to it by the House under *standing order 51* or by the Speaker under *standing order 52*, or any other related matter referred to it by or in accordance with a resolution of the House;
  - (ii) inquire into and report on the arrangements made for the compilation, maintenance and accessibility of a Register of Members' Interests;
  - (iii) consider proposals by Members and others on the form and content of the Register of Members' Interests;
  - (iv) consider specific complaints about registering or declaring interests;
  - (v) consider possible changes to any code of conduct adopted by the House; and
  - (vi) consider whether specified persons (other than Members) ought to be required to register and declare their interests.
- (b) The committee shall consist of 11 members: the Leader of the House or his or her nominee, the Deputy Leader of the Opposition or his or her nominee and nine other members, five government and four non-government Members. When the Opposition is composed of two parties, the non-government Members shall consist of at least one member of the smaller opposition party.
- (c) The committee may call for witnesses and documents, but when considering a matter concerning the registration or declaration of Members' interests it must not exercise that power or undertake an investigation of a person's private interests unless the action is approved by at least six members of the committee other than the Chair.
- (d) The committee may report when it sees fit, and must report to the House on its operations in connection with the registration and declaration of Members' interests during the year as soon as possible after 31 December each year.

## SPEECH

<p><b>Date</b> Tuesday, 15 August 2017  <b>Page</b> 8495  <b>Questioner</b>  <b>Speaker</b> Burke, Tony, MP</p>	<p><b>Source</b> House  <b>Proof</b> No  <b>Responder</b>  <b>Question No.</b></p>
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**Mr BURKE** (Watson—Manager of Opposition Business) (15:22): Mr Speaker, I wish to raise a matter of privilege under standing order 51. Under the standing orders, as you are aware, I have to fully set out the case, so I will do so as quickly as I can, but there is a bit of detail to it.

Some of the circumstances I'm about to raise first came to my attention as a result of media reporting on 8 August 2017. However, many of the most concerning circumstances and material have not been reported in the media. I'm raising this matter at the earliest opportunity at which the House could be provided with as many of the relevant materials and circumstances as possible to ensure a full and proper consideration of this matter.

It is reported that on 9 March 2016 the former member for Dunkley, Mr Bruce Billson, was appointed as a director of the lobby group the Franchise Council of Australia. It is also reported Mr Billson began receiving a salary of \$75,000 per year in respect of that position. These circumstances occurred while Mr Billson was a member of this House, and raise a number of concerns, including, but not limited to, whether his conduct as a member of the House both in and outside of the chamber was influenced by the payments he received from the Franchise Council of Australia, including whether any contributions he made in debates in the House may have matched public positions held by the Franchise Council of Australia; whether Mr Billson advocated for, or sought to advance, the interests of the Franchise Council of Australia while a member of the House, owing to the payments he received from the Franchise Council of Australia; whether Mr Billson sought to influence the conduct of other members or ministers to benefit the Franchise Council of Australia, owing to the payments he received from this lobby group; and whether the Franchise Council of Australia, through its payments, sought to influence Mr Billson in his conduct as a member of the House both in and outside of the chamber.

I note that some of the contributions made by Mr Billson to debate in the House after he was appointed as a director of the Franchise Council of Australia appear to reflect public positions held by that lobby group, including through its membership of the coalition for change group. On 16 March 2016, the Prime Minister, the Treasurer and the then Assistant Treasurer announced that the government would amend section 46 of the Competition and Consumer Act—that is, the so-called misuse of market power provision. On the same day that the government announced its amendment to section 46 of the Competition and Consumer Act, Mr Billson gave a speech in the House welcoming that amendment. I will not read his contribution to the House, but I have highlighted the relevant passage, and I will table the material. The next day, on 17 March, he made a speech in the House during which he again welcomed the amendment to section 46 of the Competition and Consumer Act. Again I will table the relevant reference.

These statements by Mr Billson appear to reflect the previously stated public position of the Coalition for Change group in its media release dated 14 October 2015. That media release advocated for the amendment which the government announced to section 46 of the Competition and Consumer Act on 16 March 2016. During his speech on 16 March, he also stated that the amendment to section 46 is 'another instalment showing how only the coalition can put the policies in place to energise enterprise'. The following day, he stated:

Whatever happens in my time, I hope in this parliament we never pass a day without respecting and celebrating those enterprising men and women—or, as I say, doing all we can to energise enterprise.

On 21 March 2016 he tweeted a photo of himself and others standing in front of a Franchise Council of Australia sign using that same term, 'energise enterprise', and he stated: 'Great to be at—the Twitter handle for the Franchise Council—'lunch briefing. New unfair contract terms by @HallandWilcox#energise-enterprise.' Clearly, after being appointed as a director of the Franchise Council of Australia and while still a member of the House, Mr Billson not only attended a Franchise Council of Australia event but also sought to publicise the lobby group to which he had been appointed. It is not clear whether he attended that event in his capacity as a director of the Franchise Council or as a member of this House, or both. During his speech on 17 March he stated:

It seems to be me versus some of the biggest businesses in the country ... There were the franchising reforms ... the Small Business and Family Enterprise Ombudsman ... All of this meant, as I said in my National Press Club speech, that small business is the new black. Everyone wants to wear it and be a part of it and get engaged.

His support for the Small Business and Family Enterprise Ombudsman appears to reflect the previously stated public position of the Franchise Council of Australia in its submission dated 9 April 2015.

However, that's not the end of it. On 4 May 2016 the Franchise Council issued a media release about the 2016 federal budget. Most concerning, in fact brazen, is that the media release contains lengthy quotes from Mr Billson not as a member of this House but as the 'Franchise Council of Australia executive chairman'. While Mr Billson was a member of parliament, on a day that parliament was sitting he issued public comments to the media, not as a member of parliament but as the executive chairman of a lobby group, the Franchise Council of Australia—all while reportedly being paid a substantial sum by that lobby group to do so.

I find it extraordinary that Mr Billson was reportedly being secretly paid an annual salary of \$75,000 to make public comments as the head of a lobby group while he was still a member of parliament. He is quoted in that Franchise Council of Australia media release, as its executive chairman, as supporting specific measures in the Commonwealth budget. Again I will table the relevant media release. This was not the first time that he made public comments, reportedly as the paid head of this lobby group, while still a member of parliament. Media releases from the Franchise Council of Australia dated 23 March and 8 April 2016 also include public comments from Mr Billson as the chairman of the Franchise Council of Australia. There is still more. An online report from *The Sydney Morning Herald* posted first on 9 August this year states:

MPs from both sides of politics said Mr Billson had been extremely active in lobbying them on franchising issues—which he was also involved in as small business minister—since he took on the role.

As Mr Billson was reportedly appointed to this role on 9 March 2016, this raises a serious prospect that from that date, and still a member of parliament, he sought to influence other members of parliament to advance the interests of the Franchise Council of Australia.

These matters raise serious concerns about the motivation for every action Mr Billson took as a member of parliament while he was reportedly being secretly paid by the Franchise Council of Australia. I also note that, contrary to the House resolution on the registration of members' interests, it is reported that Mr Billson failed to declare both his new position and the income he received in respect of this employment. It is not clear whether this apparent non-disclosure was knowing or unknowing. In relation to this matter, I understand the shadow Attorney-General has, in accordance with practice, written directly to the Committee of Privileges and Members' Interests.

Mr Speaker, to assist you in considering this matter I provide you with a number of documents. In doing so, I ask you to consider giving precedence to a motion to refer to the Committee of Privileges and Members' Interests whether Mr Billson's conduct in accepting an appointment as and acting as a paid director at the Franchise Council of Australia while still a member of the House amounts to corruption in the execution of his office as a member of this House such as to constitute a contempt of the House; whether Mr Billson's conduct amounts to lobbying for reward or consideration such as to constitute a contempt of the House; and whether the Franchise Council of Australia or any of its staff or directors has, by appointing and paying Mr Billson as a director of that lobby group while he was still a member of the House, sought to bribe or has bribed a member of the House such as to constitute a contempt of the House.

It's of the utmost importance that the Australian people can have full confidence that the people they elect to represent them in this parliament act in the public interest instead of being influenced by or seeking to influence others for private financial gain. I thank you for your consideration of this grave matter and I table the relevant material.

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## SPEECH

<b>Date</b> Tuesday, 15 August 2017	<b>Source</b> House
<b>Page</b> 8498	<b>Proof</b> No
<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> Smith, Tony, MP	<b>Question No.</b>

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**The SPEAKER** (15:30): I thank the Manager of Opposition Business and I will consider his statement and the tabled material in the usual way. Because it was a very lengthy one with lots of detail, I'll report back to the House as soon as possible, but I will do so after fully considering all the material. So it mightn't be as soon as is normally the case, but it'll only be because I'm considering what he's put forward very thoroughly.

Australian Sports Commission—Corporate plan for 2017-21.  
National Environment Protection Council—Report for 2015-16.

## 12 PRIVILEGE—COMPLAINT OF BREACH

Mr Burke raised a matter of privilege in relation to whether the circumstances surrounding the former Member for Dunkley, Mr Bruce Billson, accepting an appointment as a paid director of the Franchise Council of Australia whilst still a Member of the House, gives rise to any issues which may constitute contempts of the House.

### *Documents*

Mr Burke presented the following documents:

‘Supping with the devil’: Colleagues surprised Bruce Billson received lobbyist income while an MP—Extract from [www.smh.com.au](http://www.smh.com.au)—Matthew Knott and Fergus Hunter, 9 August 2017.

Former Liberal minister failed to disclose salary from lobbyists while in Parliament—Transcript from ABC 7.30—Reported by Pat McGrath, 8 August 2017.

Bruce Billson, former Liberal minister, failed to disclose salary from lobby group while in Parliament—ABC News—Reported by Pat McGrath, updated 9 August 2017.

Franchise Council of Australia welcomes Federal Budget small business stimulus initiatives—Franchise Council of Australia—Media release, 4 May 2016.

Franchising’s peak body supports strong franchising sector—Franchise Council of Australia—Media release, 8 April 2016.

New Franchising Board chair appointed - Billson aims to boost buoyant sector—Franchise Council of Australia—Media release, 23 March 2016.

Copy of tweet, including picture, by Bruce Billson, 21 March 2016.

Social Services Legislation Amendment (Interest Charge) Bill 2016—Second reading speech by Mr Billson—House of Representatives Hansard, 17 March 2016.

Fixing competition policy to drive economic growth and jobs—Joint media statement—Prime Minister, Treasurer and Assistant Treasurer, 16 March 2016.

Competition and Consumer Law, Paid Parental Leave—Statement by Mr Billson—House of Representatives Hansard, 16 March 2016.

The FCA’s submission on the Small Business and Family Enterprise Ombudsman—Franchise Council of Australia, 9 April 2015.

Business groups united to strengthen competition laws—Media release, MGA Independent Retailers, 14 October 2015.

The Speaker stated that he would consider the matter and report to the House at a later time.

## 13 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—ECONOMY

The House was informed that Mr Bowen had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The Government’s failure to provide leadership on the economy”.

The proposed discussion having received the necessary support—

Mr Bowen addressed the House.

Discussion ensued.

Discussion concluded.

## 14 GREAT BARRIER REEF MARINE PARK AMENDMENT BILL 2017—DEFERRED DIVISION

The order of the day having been read for the further consideration of the bill—

The following question, on which a division had been called for and deferred in accordance with standing order 133, was put—

Question—that the amendment moved by Mr Bandt to the proposed amendment moved by Mr Burke be agreed to (*see item No. 6, page 974*).

The House divided and only Mr Bandt, Ms McGowan and Mr Wilkie voting “Aye”, the Speaker (Mr A. D. H. Smith) declared the question resolved in the negative.

- (b) commit to consideration of increasing Australian aid in real terms in the next four years, to support achieving these goals;
- (c) build understanding within the Australian community of the work that has been achieved through Australian aid, to lift our national pride in our contribution to the world; and
- (d) expand opportunities for everyday Australians to contribute in practical ways to regional development, through short work parties to exchange agricultural and practical skills in developing countries.

Debate ensued.

Debate adjourned, and the resumption of the debate made an order of the day for the next sitting.

**10 MATTER OF PRIVILEGE RAISED BY MANAGER OF OPPOSITION BUSINESS—STATEMENT BY SPEAKER**

The Speaker made the following statement:

On 15 August 2017 the Manager of Opposition Business raised as a matter of privilege whether the circumstances surrounding the former Member for Dunkley, Mr Bruce Billson, accepting an appointment as a paid director of the Franchise Council of Australia whilst still a Member of the House gave rise to any issues which may constitute contempt of the House. I am satisfied the Member has raised the matter at the earliest opportunity. The Manager of Opposition Business tabled a number of related documents and I have examined these as well as his statement to the House.

*House of Representatives Practice*, relying on the experience in the United Kingdom as noted in Erskine May's *Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (known commonly as May) refers to two relevant matters that could be considered as contempts.

The first is corruption in the execution of a Member's office as a Member. To quote from May:

The acceptance by a Member of either House of a bribe to influence him in his conduct as a Member, or of any fee, compensation or reward in connection with the promotion of or opposition to any bill, resolution, matter or thing submitted or intended to be submitted to either House, or to a committee is a contempt.

The second is lobbying for reward or consideration. Again to quote from May, citing a resolution of the House of Commons in 1995:

No Members of the House shall, in consideration of any remuneration, fee, payment, reward or benefit in kind, direct or indirect...advocate or initiate any cause or matter on behalf of any outside body or individual; or urge any Member of either House of Parliament, including Ministers, to do so, by means of any speech, Question, Motion, introduction of a bill, or amendment to a Motion or Bill.

Clearly these matters are not unrelated and there could be a fine distinction between them. As I understand it the Manager of Opposition Business has cited both as grounds for possible contempts in this case. He also refers to the actions of the Franchise Council of Australia in making the appointment of the former Member for Dunkley, and has raised whether this action also may give rise to contempt issues.

In his statement, the Manager of Opposition Business refers to a number of statements and actions of Mr Billson after his appointment to the Franchise Council of Australia that, he states, appeared to show support for the position of the Council or indicated an association with the Council.

I am not in a position to determine the nature of any connection between the appointment of Mr Billson to the Franchise Council and his subsequent statements and actions, but I appreciate that issues are raised.

In relation to the question of matters being contempts, I also note that they must meet the test of section 4 of the *Parliamentary Privileges Act 1987* and be conduct that is intended or likely to amount to an improper interference with the free exercise by the House of its authority or functions. I am not in a position to determine whether there is a prima facie case that this test has been met in these matters raised by the Manager of Opposition Business, but again I note the nature of the issues that have been raised.

I note that in the United Kingdom that matters to do with lobbying for reward or consideration would now generally be dealt with as matters of conduct under the House of Commons Code of Conduct. The House of Representatives does not have a similar code for Members even though a case such as this raises matters that may potentially be more to do with appropriate conduct rather than contempt. In this regard I note that the Committee of Privileges and Members' Interests has responsibility under the standing orders for questions about a code of conduct for Members.

I am willing to give precedence to a motion for matters to do with contempt or conduct in relation to the circumstances raised by the Manager of Opposition Business to be referred to the Committee of Privileges and Members' Interests. In doing so I reiterate that I have not made a determination that there is a *prima facie* case, but I am sufficiently concerned by the matters raised to consider they should be examined by the Committee.

I note that the Manager of Opposition Business referred to the Member for Isaacs having written to the Committee of Privileges and Members' Interests in relation to the former Member for Dunkley's obligations in relation to the registration of Members' Interests. I also note the remarks of the Prime Minister in response to a question from the Manager of Opposition Business on Thursday 10 August that he had asked the Secretary of the Department of Prime Minister and Cabinet to examine the former Member for Dunkley's compliance with the Statement of Ministerial Standards.

Finally, I wish to address the issue of the jurisdiction of the House in relation to a former Member. I note that the matters raised by the Manager of Opposition Business relate to the period when Mr Billson was a Member of the House. The requirements of a Member's accountability to the House relate to the period in which they were a Member and can be dealt with by the House after a Member ceases to be a Member. The most recent relevant case is that concerning the former Member for Dobell, Mr Craig Thomson.

#### **11 MATTER OF PRIVILEGE—REFERENCE TO COMMITTEE OF PRIVILEGES AND MEMBERS' INTERESTS**

Mr Burke moved—That the following matters be referred to the Committee of Privileges and Members' Interests:

Whether the former Member for Dunkley, Mr Bruce Billson, by accepting an appointment as, and acting as, a paid director of the Franchise Council of Australia whilst still a Member of the House gives rise either to any issues that may constitute a contempt of the House or to any issues concerning the appropriate conduct of a Member having regard to their responsibilities to their constituents and to the public interest.

Question—put and passed.

#### **12 MESSAGE FROM THE GOVERNOR-GENERAL—ASSENT TO BILLS**

A message from His Excellency the Governor-General was announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following bills:

23 August 2017—Message No. 94—

Competition and Consumer Amendment (Misuse of Market Power) 2017.

Education and Training Legislation Repeal 2017.

Great Barrier Reef Marine Park Amendment 2017.

Petroleum and Other Fuels Reporting 2017.

Petroleum and Other Fuels Reporting (Consequential Amendments and Transitional Provisions) 2017.

Public Governance and Resources Legislation Amendment (No. 1) 2017.

Statute Update (Winter 2017) 2017.

Treasury Laws Amendment (2017 Measures No. 4) 2017.

## SPEECH

<b>Date</b> Monday, 4 September 2017	<b>Source</b> House
<b>Page</b> 8991	<b>Proof</b> No
<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> Burke, Tony, MP	<b>Question No.</b>

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**Mr BURKE** (Watson—Manager of Opposition Business) (11:42): I move:

That the following matter be referred to the Committee of Privileges and Members' Interests:

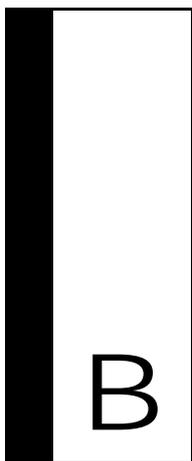
Whether the former Member for Dunkley, Mr Bruce Billson, by accepting an appointment as, and acting as, a paid director of the Franchise Council of Australia whilst still a Member of the House gives rise either to any issues that may constitute a contempt of the House or to any issues concerning the appropriate conduct of a Member having regard to their responsibilities to their constituents and to the public interest.

In moving that way, I acknowledge that the motion does no more than your statement. I am not asking the House to form a conclusion on this matter and I acknowledge that your statement didn't seek to either. The motion simply seeks to refer a serious matter to the Committee of Privileges.

The motion is designed, quite specifically, to allow the committee to examine the conduct of both Mr Billson and the Franchise Council during the time that Mr Billson was a member of parliament. When I raised the issue, I specifically referred to—while it is in different words—the fact that the intention of the motion is to incorporate the issue which I raised, which was for the House to be able to give precedence to a motion to refer to the Committee of Privileges and Members' Interests the question of whether Mr Billson's conduct, in accepting an appointment as, and acting as, a paid director of the Franchise Council of Australia while still a member of the House, amounts to corruption in the execution of his office as a member of the House such as to constitute a contempt of the House, and whether his conduct amounts to lobbying for reward or consideration such as to constitute a contempt of the House and whether the Franchise Council, or any of its staff or directors, has by appointing and paying Mr Billson as a director of that lobby group while he was still a member of the House, sought to bribe, or has bribed a member of the House, such as to constitute a contempt of the House. I urge the House, as has always been the case, to deal with this matter of privilege in the usual way. We make no conclusion by carrying this resolution but we do determine that the House will ensure that the matter is examined in the appropriate way by the Committee of Privileges and Members' Interests.

Question agreed to.





## Appendix B – Memorandum by the Clerk of the House of Representatives

### **The reference**

On 4 September 2017 the House agreed to the following motion moved by the Member for Watson.

That the following matters be referred to the Committee of Privileges and Members' Interests:

Whether the former Member for Dunkley, Mr Bruce Billson, by accepting an appointment as, and acting as, a paid director of the Franchise Council of Australia whilst still a Member of the House gives rise either to any issues that may contribute a contempt of the House or to any issues concerning the appropriate conduct of a Member having regard to their responsibilities to their constituents and to the public interest.

The matter was raised in the House by the Member for Watson on 15 August 2017 and the Member tabled a number of documents for the Speaker's consideration of whether to grant precedence to a motion to refer the matter to the Committee of Privileges and Members' Interests.

In agreeing to give precedence to a motion to refer the matter to the Committee the Speaker stated:

In doing so I reiterate that I have not made a determination that there is a prima facie case, but I am sufficiently concerned by the matters raised to consider they should be examined by the Committee.<sup>1</sup>

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<sup>1</sup> *Votes and Proceedings*, 4 September 2017, p. 1017

### **General provisions relating to privilege and contempt**

A detailed explanation of the law and practice of the House relating to privilege and contempt is set out in *House of Representatives Practice*<sup>2</sup>.

Reference is made to the power of the House to punish contempts and the following definition of contempt is quoted from the United Kingdom volume of parliamentary practice (*May*):

... any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.<sup>3</sup>

Specifically in relation to the Australian House of Representatives, for a matter to be a contempt it must meet the requirement of section 4 of the *Parliamentary Privileges Act 1987*, that is:

Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercised by a House or committee of its authority or functions, or with the free performance by a Member of the Member's duties as a Member.

In effect this provision sets a threshold which must be met for a matter to amount to a contempt.

### **Particular references relevant to the matters referred to the committee**

*House of Representatives Practice* notes that corruption in connection with the performance of a Member's duties as a Member can be punished as a contempt. It quotes *May* to this effect:

The acceptance by a Member of either House of a bribe to influence him in his conduct as a Member, or of any fee, compensation or reward in connection with the promotion of or opposition to any bill, resolution, matter or thing submitted or intended to be submitted to either House, or to a committee is a contempt.<sup>4</sup>

In relation to lobbying for reward or consideration, *House of Representatives Practice* quotes from *May* a resolution agreed to by the United Kingdom House of Commons in 1995 (adding to a 1947 resolution):

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<sup>2</sup> *House of Representatives Practice*, 6<sup>th</sup> ed, Chapter 19, 'Parliamentary Privilege'

<sup>3</sup> Erskine May, *Parliamentary Practice*, 24<sup>th</sup> ed, p. 256

<sup>4</sup> *House of Representatives Practice*, op. cit., pp. 752-53

... no Members of the House shall, in consideration of any remuneration, fee, payment, reward or benefit in kind, direct or indirect, ... advocate or initiate any cause or matter on behalf of any outside body or individual; or urge any Member of either House of Parliament, including Ministers, to do so, by means of any speech, Question, Motion, introduction of a bill, or amendment to a Motion or Bill.<sup>5</sup>

Finally, *House of Representatives Practice* notes that the offering of bribes to Members to influence them in their parliamentary conduct is a contempt.<sup>6</sup>

## PRECEDENTS

### House of Representatives

I have been able to identify only one relevant case in the House of Representatives in 1959.<sup>7</sup> In that case a Member raised a matter of privilege based on the circulation of a lettergram about the Member and which made allegations that the Member had engaged in professional lobby work for certain firms and influenced the Government to obtain a contract for one of the firms. That is, the Member had improperly used his position and influence on behalf of certain firms. The matter of privilege raised by the Member was whether the circulation of the lettergram amounted to a threat to influence him in his conduct. The Committee of Privileges examined the matter and found that the circulation of the lettergram did not amount to a breach of privilege and, incidentally, recorded that the Member concerned denied completely any implication of improper conduct as alleged in the lettergram.

### United Kingdom

Erskine May's *Parliamentary Practice (May)* refers to historical cases both of corruption and impropriety in office by a Member and paid advocacy on behalf of others.<sup>8</sup> These matters are now most likely to be dealt with in the House of Commons as matters of conduct under the Code of Conduct adopted by the House of Commons. The Code provides at paragraph 11:

No Member shall act as a paid advocate in any proceeding of the House.

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<sup>5</sup> *House of Representatives Practice*, op. cit., p.753

<sup>6</sup> *House of Representatives Practice*, op. cit., p.754

<sup>7</sup> *House of Representatives Practice*, op. cit., p.873, matter no. 44.

<sup>8</sup> Erskine May, *Parliamentary Practice*, 24<sup>th</sup> ed, pp. 254-57

This paragraph in the Code is further developed as follows:

Taking payment in return for advocating a particular matter in the House is strictly forbidden. Members may not speak in the House, vote, or initiate parliamentary proceedings for payment in cash or kind. Nor may they make approaches to Ministers, other Members or public officials in return for such payment.

A Member may not enter into any contractual arrangement which fetters the Member's complete independence in Parliament, nor may an outside body (or person) use any contractual arrangement with a Member of Parliament as an instrument by which it controls, or seeks to control, his or her conduct in Parliament, or to punish that Member for any parliamentary action.

The Committee will note that the code covers both the actions of a Member as well as the actions of any outside body or person who seeks to make an arrangement with a Member which might enable the exercise of control over the conduct of a Member.

These provisions however are clarified later in the statement of principles:

The lobbying rules do not prevent a Member holding a paid outside interest as a director, consultant, or adviser, or in any other capacity, whether or not such interests are related to membership of the House.

The lobbying rules apply only to Members who receive an outside reward or consideration and whose activities would provide a financial or material benefit to the person or organisation providing that reward or consideration. They do not otherwise prevent Members from initiating or participating in proceedings or approaches to Ministers, other Members or public officials, even where they themselves may have a financial interest. In such cases the rules on registration and declaration apply. Members must also consider whether they have a conflict of interest. If so, they must resolve it, at once, in accordance with Paragraph 10 of the Code of Conduct.

## **Canada**

The Canadian House of Commons also has a 'Conflict of Interests Code for Members of the House of Commons' and matters to do with the acceptance of benefits connected with a Member's position would be dealt with as code of conduct matters.

## **THE TASK BEFORE THE COMMITTEE**

### **Alleged matters of contempt**

In relation to the possible matters of contempt – corruption of a Member in the conduct of his or her office; a Member lobbying for reward or consideration; or an organisation seeking to offer a benefit to a Member to influence the Member in his or her parliamentary conduct – the Committee would need firstly to satisfy itself that there is a direct connection between a Member's acceptance of any reward or benefit and the Member's actions in his or her parliamentary duties. It may be difficult to establish that a range of actions of a Member or views expressed by a Member had a clear and direct connection with any reward or benefit received from an organisation.

Even if the Committee is able to establish a direct connection, it would then also need to affirm that the actions amounted to an improper interference with the functioning of the House or with the Member's duties as a Member. The Committee might be looking for an intention to hide or disguise the connection so that there was not an awareness that the actions being taken were potentially undermining the proper processes of the House. This also may be difficult to establish.

### **Matters of conduct**

As has been noted, matters such as those that appear to be raised by the actions of the former Member for Dunkley would be dealt with in other comparable jurisdictions (the United Kingdom and Canada) as matters of conduct. I believe the reason for this is the high bar that is presented if a contempt is to be found. The same high level test would not need to be met in relation to issues of appropriate conduct.

As the Committee would be well aware, there is no code of conduct for Members of the House. The Committee has previously considered a code of conduct and produced a discussion paper for the House's consideration. No action was taken by the House on the discussion paper.

It would be open to the Committee to revisit the question of whether there should be a code of conduct for Members so that the House could more easily address issues such as those raised by the actions of the former Member for Dunkley. The Committee also could consider whether the actions might give rise to any proposed changes to the resolution concerning the declaration of Members' Interests.

It would also be open to the Committee to assess the actions of the former Member for Dunkley as a matter of conduct on which it could provide commentary or conclusions to the House. Any options for sanctions against a former Member for

unsatisfactory conduct would be limited. The usual imposition for poor conduct is to suspend the Member for a period from the services of the House. This form of sanction is not available in relation to a former Member. The sanctions available under section 7 of the Privileges Act also are not available as they apply only to matters of contempt ('or an offence against the House'). Sanctions such as a motion of censure or reprimand would be open for the Committee to consider.

## **OTHER MATTERS**

### **Committee procedures providing procedural fairness**

I am sure the committee is aware of the procedures adopted by the House (on the recommendation of the committee) for the protection of witnesses before the committee (copy at attachment 1).

The procedures, amongst other matters, specify that the committee:

- must notify in advance a person who is the subject of proposed investigation of the specific nature of the allegation made against them, preferably formulated as a specific charge, or if this is not possible, of the general nature of the issues being investigated, in order to allow them to respond;
- ensure a person who is the subject of a proposed investigation should have all reasonable opportunity to respond;
- enable a person appearing before the committee to be accompanied by, and be able to consult, counsel;
- should take evidence in public, unless it is determined in the public interest to take evidence in camera;
- is able to appoint counsel to assist it; and
- must, if it has determined findings, or is to recommend penalties in relation to a person, give that person every reasonable opportunity to make written or oral submissions to the committee.

### **Further assistance**

Please let me know if there is any further assistance I can provide to the Committee.

DAVID ELDER  
Clerk of the House  
8 September 2017



## **Appendix C - Submissions**



# MinterEllison

6 October 2017

Mr Ross Vasta MP  
Chair  
Committee of Privileges and Members' Interests  
Parliament House  
CANBERRA ACT 2600

Dear Mr Vasta

## Complaints against the Hon. Bruce Billson

We act for The Hon. Bruce Billson. We refer to your letter dated 6 September 2017, which has been referred to us.

### 1. Introduction

- 1.1 Your letter notified Mr Billson of two matters that have been referred for investigation to the Committee of Privileges and Members' Interests (**Committee**). The complaints arise from overlapping circumstances and are as follows:
  - (a) whether Mr Billson's conduct, by accepting an appointment as, and acting as, a paid director of the Franchise Council of Australia (**FCA**) whilst still a Member of the House gives rise either to any issues that may constitute a contempt of the House or to any issues concerning the appropriate conduct of a Member having regard to their responsibilities to their constituents and to the public interest. This complaint was raised by the Hon. Tony Burke MP in a speech to the House on 15 August 2017 (**Speech**); and
  - (b) related to the matters raised in the Speech, a complaint under Standing Order 216(a)(iv) regarding Mr Billson's registration of members' interests, which was raised in a letter dated 15 August 2017 from the Hon. Mark Dreyfus QC MP.
- 1.2 Following the Speech and in accordance with Standing Order 51, the Speaker on 5 September 2017 gave precedence to a motion to refer the above complaints to the Committee for investigation. In giving precedence, the Speaker expressly stated that he had not *'made a determination that there is a prima facie case'* for Mr Billson to answer. For the reasons set out in this letter, it is clear that had the circumstances of Mr Billson's appointment by the FCA been fully examined and the complaints reviewed, there would be no prima facie case to answer.
- 1.3 The purpose of this letter is to respond to the complaints. It is our client's position that the complaints are completely baseless, rely on a conflation of the issues, disregards the chronology of events and that the material provided to the House by Mr Burke is inaccurate, incomplete or misleading. The circumstances outlined plainly do not amount to a contempt of the House and moreover, these unsubstantiated allegations have caused significant harm to Mr Billson's reputation against which he has little ability to defend.

### 2. Summary of our client's position

- 2.1 Our client's position is summarised as follows:

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- (a) Mr Billson's acceptance of an appointment at the FCA did not amount to (and was never capable of amounting to) a contempt, because:
  - (i) Mr Billson did not seek to conceal his appointment by the FCA, but rather, it was widely known and reported by the media;
  - (ii) there was no current public policy issue requiring Mr Billson's advocacy at the time of Mr Billson's appointment, and there was no expectation that Mr Billson would have any involvement in any public policy issue whilst still a Member of the House;
  - (iii) the primary focus of Mr Billson's role at the FCA at the time of his appointment was to assist communications between the executive team and the FCA Board, and participate in the selection and appointment of a Chief Executive Officer for the FCA; and
  - (iv) the FCA was very aware and mindful of the restrictions that applied to Mr Billson as a Member of the House at the time of the appointment, particularly as several other sitting politicians had applied for the publicly advertised position of Executive Chairman of the FCA before the position was awarded to Mr Billson; and
- (b) Mr Billson's failure to declare on his Statement of Registrable Members' Interests does not warrant a finding under Standing Order 216(a)(iv) that Mr Billson has acted contrary to House resolutions, because:
  - (i) Mr Billson's error was an administrative oversight for which he has apologised to the House;
  - (ii) at the time of ceasing to be a member of the House, the 28 day timeframe for disclosing his payment by the FCA on the Register had not yet lapsed so Mr Billson was still within time to register that interest; and
  - (iii) there is no evidence of any dishonesty on Mr Billson's part that suggests an attempt to conceal his appointment by the FCA, and, contrary to that suggestion is the widespread media coverage the appointment received (which is expanded on herein).

### 3. Mr Burke's complaint

- 3.1 The information provided by Mr Burke during the Speech, and the information contained in this submission, must be considered in the context of the following critical dates:
  - (a) 20 September 2015: Mr Billson ceases to be a Minister of the government;
  - (b) 24 November 2015: Mr Billson announces his retirement, effective at the dissolution of parliament at the calling of the next election;
  - (c) 9 March 2016: Mr Billson is appointed Executive Chairman of the FCA; and
  - (d) 9 May 2016: parliament is dissolved and Mr Billson ceases to be a Member of parliament.
- 3.2 During the Speech, Mr Burke made four broad allegations against our client and the FCA. These allegations were raised in the form of queries:
  - (a) whether Mr Billson's conduct as a Member of the House both in and outside of the chamber was influenced by the payments he received from the FCA, including whether any contributions he made in debates in the House may have matched the public positions held by the FCA;
  - (b) whether Mr Billson advocated for, or sought to advance, the interests of the FCA while a Member of the House owing to payments he received from the FCA;
  - (c) whether Mr Billson sought to influence the conduct of other members or ministers to benefit the FCA, owing to the payments he received from this lobby group; and

- (d) whether the FCA, through its payments, sought to influence Mr Billson in his conduct as a Member of the House both in and outside the chamber.
- 3.3 The material produced by Mr Burke to accompany his allegations provided no kind of evidence, factual insight or corroboration. Mr Burke does not appear to have made any attempt to verify claims and accusations made in the media, on which he relies, and a cursory search of Hansard and other publicly available records reveals that the 'word/phrase association' theme Mr Burke presented to give weight to his argument could not, on any level, be proved. For this matter to be before the Committee without any prior substantiation of the veracity of the serious claims against Mr Billson (and considering that Mr Billson is constrained from defending himself against the serious reputation harm caused by the claims) is harsh and unjust.
- 3.4 The Speaker referred Mr Burke's allegations to the Committee in the form of a single complaint, as described above in paragraph 1.1(a).
- 3.5 During his Speech, Mr Burke referred to several comments made by Mr Billson following his appointment by the FCA, between 9 March 2016 and 9 May 2016, being the time after Mr Billson's appointment by the FCA during which Mr Billson was still a Member of Parliament (the **overlap period**). Those comments were raised in an attempt to show that Mr Billson's appointment by the FCA influenced his conduct as a Member of the House during the overlap period. As is set out below, those comments in no way demonstrate that allegation.
- 3.6 The comments referred to during the Speech are:
- (a) on 16 March 2016, Mr Billson gave a speech to the House supporting the government's proposal to amend section 46 of the Competition and Consumer Act (**CCA**), being the misuse of market power provision;
  - (b) during a Speech to the House on 17 March 2016, Mr Billson again welcomed the government's proposed amendment to the CCA;
  - (c) on 21 March 2016, Mr Billson tweeted a photo of himself and others standing in front of an FCA sign that stated 'energise enterprise';
  - (d) during a speech in the House on 17 March 2016, Mr Billson stated that:
 

*'It seems to be me versus some of the biggest businesses in the country ... There were the franchising reforms ... the Small Business and Family Enterprise Ombudsman ... All of this meant, as I said in my National Press Club speech, that small business is the new black. Everyone wants to wear it and be a part of it and get engaged';* and
  - (e) on 4 May 2016, the FCA issued a media release that contained quotes from Mr Billson that are attributed to him as 'FCA executive chairman'.
- 3.7 Mr Burke sought to demonstrate that Mr Billson was promoting the interests of the FCA because his comments supporting amendments to the CCA referred to are consistent with the FCA's historical position on certain issues. This is plainly false. In fact, these comments are entirely consistent with Mr Billson's publicly stated position on those matters that were held long before his appointment by the FCA. Those comments, in fact, support the view that Mr Billson's appointment had no effect on his conduct in the House. Further, we have attached as **Annexure A** a table summarising the numerous times Mr Billson was quoted as using expressions referred to in Mr Burke's Speech *before* his appointment by the FCA.
- 3.8 The sensationalist and inflammatory language chosen by Mr Burke to voice unsubstantiated allegations have caused harm, reputational damage and distress to Mr Billson. In our view, it was inappropriate for Mr Burke to have made such serious and yet baseless allegations against a private citizen under parliamentary privilege.
- 3.9 Mr Burke's reference to Mr Billson's comments in the overlap period was sought to help to prove Mr Burke's allegations against Mr Billson. It is not clear which of those comments are said to support which specific allegation, or whether all of those comments are said to support all four broad allegations. However it seems clear that in the context of the following publicly verifiable facts the comments cannot support any allegation:

- (a) Mr Billson's comments in the overlap period were general in nature and not designed to impact on public policy;
- (b) the comments are entirely consistent with all prior comments by Mr Billson concerning s 46 of the CCA and small business reforms generally;
- (c) the FCA public submission in fact did *not* support the establishment of the Small Business and Family Enterprise Ombudsman's claims (as was claimed in the Speech), and the FCA was essentially ambivalent to the establishment of this position;
- (d) it is a matter of public record that the FCA had no public position on s 46 of the CCA, was ambivalent to the proposed change and had no dialogue with Mr Billson on the matter at any stage, and so Mr Billson's position in support of the amendment could not be an attempt to promote the FCA's agenda;
- (e) the comments demonstrate no change in Mr Billson's position on any public policy issues from the time before his appointment by the FCA, which is consistent with the position that the FCA appointment had no bearing on Mr Billson's duties as a Member of the House; and
- (f) The comments and media statements made by Mr Billson and referenced by Mr Burke to support his serious allegations were known and publicised in 2016. Had any issue or concern existed at that time (particularly of the seriousness now purported by Mr Burke), it would have been reasonable and proper to expect that issues or concerns be raised at the time, and not many months later. Evidently, no issues or concerns were raised at the time and the opportunity for a contemporaneous parliamentary examination with Mr Billson being able to directly engage as a Member, was not activated. No issue or concern arose at the time despite all relevant information being available and so to assert that one arises now is a contrivance.

3.10 Findings of contempt of the House are quite rightly reserved for serious allegations of impropriety.<sup>1</sup> Mr Billson's comments were general in nature. The nature of the comments falls drastically short of the standard of evidence required to demonstrate that any the complaints or allegations of contempt are founded. Indeed without additional material, some of which is publicly available, and proper context they have the potential to create a false and misleading impression of the conduct of our client.

#### 4. Further information relevant to Mr Burke's complaint

- 4.1 As is outlined below, Mr Burke's allegations of serious impropriety are not supported by any events that occurred in the overlap period. Mr Billson has not engaged in any wrongdoing of a requisite standard to be considered a contempt of the House. Again, findings of contempt of the House are reserved for serious instances of impropriety.<sup>2</sup> No evidence has been presented and none is available to support an allegation of contempt of the House.
- 4.2 Mr Burke alleges that Mr Billson's conduct in accepting an appointment as and acting as a paid director at the FCA while still a Member of the House amounts to *corruption in the execution of his office as a Member of the House*. Corruption is any conduct that adversely affects, or that could adversely affect, either directly or indirectly the honest or impartial exercise of official functions by any public official.<sup>3</sup> Mr Billson's role at the FCA did not and was not capable of adversely affecting the honest and impartial exercise of his functions as a Member of the House during the short overlap period. It did not create (nor was it capable at any time of creating) a conflict of interest.
- 4.3 The implication from Mr Burke's questions is that Mr Billson was engaged by the FCA in a lobbying role during the period of his transition from Parliament to his part-time FCA role. This is false. In fact, the primary focus of Mr Billson's role at the FCA at the time of his appointment was to assist communications between the executive team and the FCA Board, and participate in the selection and appointment of a Chief Executive Officer for the FCA. There was no current public policy issue for the FCA during this period, and no expectation that Mr Billson would have any

<sup>1</sup> See, for example, examples of corruption or impropriety leading to findings of contempt against the house in Erskine May, *Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 24th ed (2011), p 255-256.

<sup>2</sup> See, for example, examples of corruption or impropriety leading to findings of contempt against the house in Erskine May, *Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 24th ed (2011), p 255-256.

<sup>3</sup> See *Independent Commission Against Corruption Act 1988* (NSW), section 8(1)(a).  
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involvement in any public policy issue. The FCA was very aware and mindful of the restrictions that applied to Mr Billson as a Member of the House, particularly as several other sitting politicians had applied for the publicly advertised position as Executive Chairman of the FCA before the position was awarded to Mr Billson.

- 4.4 The only advocacy activity to date in which Mr Billson has been involved since joining the FCA arose as a consequence of the surprise announcement of a policy to introduce the amendments to the *Fair Work Act 2009* (Cth) in relation to 'joint employer liability'. Those amendments were not known or revealed until *after* the 2016 election had been called, at a time when Mr Billson was no longer a Member of the House. Mr Billson has been active in representing the FCA in meetings with various stakeholders in relation to the Fair Work Act amendments *since* the election and his retirement from parliament, as he is fully entitled to do. It is chronologically impossible for Mr Billson to advocate an FCA policy position to Government while sitting as a Member, on a policy position of the Government that only became known after Mr Billson was no longer an Member of Parliament.
- 4.5 Mr Burke's Speech refers to some public comments made by Mr Billson in the overlap period between his appointment by the FCA and his ceasing to be a Member of Parliament, which Mr Burke suggests are evidence that Mr Billson's exercise of his duties as a Member had been (or may have been) compromised by his appointment. These public comments are noted above at paragraph 3.6. It is submitted that none of these public comments indicate that Mr Billson's honest or impartial exercise of his duty as a Member of the House had been compromised by his appointment by the FCA, because none of those comments indicate any change in Mr Billson's position on any public policy matters following his appointment by the FCA. Annexure A supports this position. The comments were of relatively minor significance and do not indicate any effect on Mr Billson's duties as a Member of the House.
- 4.6 Mr Burke alleges that Mr Billson's conduct amounts to lobbying for reward or consideration such as to constitute a contempt of the House.
- 4.7 During and following his appointment by the FCA, the FCA and Mr Billson have, at all times, been cognisant of and acted in accordance with the *Statement of Ministerial Standards* and the *Lobbying Code of Conduct (Lobbying Code)*.
- 4.8 Mr Billson has never been engaged as a lobbyist by or for the FCA because he was not 'acting on behalf of a third party client'<sup>4</sup>, but instead was an employee of the FCA. The Lobbying Code also makes it clear that it 'does not apply to any person, company or organisation, or their employee, engaging in lobbying activity on their own behalf rather than for a client ...'. At the time of Mr Billson's appointment, the FCA retained the services of two lobbying firms, both of which were 'acting on behalf of a third party client', being the FCA. Further, the public comments referred to by Mr Burke in no way indicate that Mr Billson's honest or impartial exercise of his duty as a Member of the House had been compromised by his appointment by the FCA. As is stated above, none of those comments indicated any change in Mr Billson's position on any public policy matters following his appointment by the FCA. Again, there was no public policy issue that required Mr Billson's involvement during the overlap period.
- 4.9 The FCA is a non-profit organisation 'constituted to represent the interests of ... members' and therefore expressly excluded from the definition of 'lobbyist' under clause 3.5(b) of the Lobbying Code.
- 4.10 During his Speech, Mr Burke refers to a media report from the Sydney Morning Herald that states:
- 'MPs from both sides of politics said Mr Billson had been extremely active in lobbying them on franchising issues—which he was also involved in as small business minister—since he took on the role.'*
- 4.11 Firstly, the advocacy referred to in this media report relates to the amendments to the Fair Work Act referred to above. Those amendments were announced after the calling of the election in May 2016, a time when Mr Billson had ceased being a Member of the House. So, any allegation of lobbying whilst being a Member is plainly unfounded. Secondly, this statement from a media report was not supported by any source material or evidence and the allegation is expressly denied by Mr Billson. In that regard, it is submitted that the unsupported media report cannot be

<sup>4</sup> See clause 3.5 of the Lobbying Code.  
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relevant to your consideration, particularly as it is contradicted by express denials from Mr Billson and the FCA and other information included in this submission.

- 4.12 For completeness (and noting that this is not directly relevant to the allegations raised by Mr Burke), it is noted in relation to the *Statement of Ministerial Standards* that:
- (a) in relation to clause 2.4, Mr Billson was not required to obtain the Prime Minister's approval for accepting a directorship of the FCA as he was no longer a Minister at the time of his appointment on 9 March 2016;
  - (b) the restraints on other forms or employment or personal exertion outlined in clauses 2.19 and 2.20 are also not applicable as Mr Billson had already ceased to be a Minister when he accepted the role at the FCA;
  - (c) in relation to clause 2.24, which requires that a Minister, for 'an eighteen month period after ceasing to be a Minister, ... will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office'. For the reasons outlined above, Mr Billson's appointment by the FCA was as an employee and not as a lobbyist. Further, during the relevant two month overlap period there were no matters of advocacy or business meetings with government on any aspect of public policy; and
  - (d) clause 2.24 further provides that 'Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they had access as a Minister, where that information is not generally available to the public'. It is noted that the amendments to the Fair Work Act in relation to 'joint employer liability' fall within the purview of the Employment/Workplace Relations portfolio, which is not something over which Mr Billson had 'official dealings' as the Minister for Small Business.
- 4.13 Accordingly, at no time during the overlap period did Mr Billson lobby any member of parliament and therefore there is no prima facie case to answer, and no evidence to contradict the characterisation of Mr Billson's conduct as transparent, appropriate, professional and with integrity, during the relevant time.
- 4.14 Mr Burke alleges that the FCA, by appointing and paying Mr Billson as a director, while he was still a member of the House, sought to bribe or has bribed a member of the House such as to constitute a contempt of the House. A person commits bribery if the person 'dishonestly provides a benefit to another person with the intention of influencing a public official.'<sup>5</sup>
- 4.15 It is noted that Mr Burke provides no evidence whatsoever to support any allegation that the FCA has acted dishonestly in appointing Mr Billson, or that the appointment could in any way be considered a bribe. The mere fact of payment of Mr Billson's salary cannot be elevated to being a bribe, particularly where there is no further evidence to suggest any dishonesty.

<sup>5</sup> See *Criminal Code Act 1995* (Cth) section 141.1 (1).  
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4.16 In fact, the appointment of Mr Billson was done in good faith and in full public view. The position was publicly advertised, was undertaken using an external executive firm and yielded applicants from both major political parties. It was widely reported in the media, for example:

- (a) across the Fairfax Media network, including for example in the Sydney Morning Herald: <http://smh.com.au/mevn.net/small-business/franchising/bruce-billson-to-head-franchise-council-of-australia-20160322-gnonin.html>;
- (b) in the Herald Sun: <http://www.heraldsun.com.au/business/former-federal-minister-bruce-billson-to-chair-franchise-council-of-australia/news-story/e98662bf704fedb94375c37607b9a8b2>;
- (c) on SmartCompany: <http://www.smartcompany.com.au/business-advice/franchising/bruce-billson-to-chair-franchise-council-of-australia/>; and
- (d) on the FCA website itself: <https://www.franchise.org.au/articles/new-fca-board-chair-appointed---billson-aims-to-boost-buoyant-sector.html>.

4.17 These reports are enclosed as **Annexure B**.

4.18 In further support of the fact that Mr Billson's appointment was in full public view are the many messages of congratulations that Mr Billson received following his appointment. Mr Billson received several personal messages of congratulations, including from other Members of the House and other heads of industry associations, media commentators and regulators, for example from:

- (a) Bernie Ripoll (former Shadow Minister and Labor MP);
- (b) Ross Greenwood (broadcaster/journalist);
- (c) Rod Sims (Australian Competition and Consumer Commission);
- (d) Jos de Bruyn (industry association);
- (e) Anthony Tassone; and
- (f) Jan Richards.

4.19 On the basis of the above, Mr Burke's complaints are clearly unfounded and no further action should be taken against Mr Billson, who has already been unfairly made to endure the misleading and damaging allegations contained in the Speech.

## 5. Mr Dreyfus QC's complaint

- 5.1 Mr Dreyfus QC's complaint relates to Mr Billson's failure to declare on his Statement of Registrable Interests that he was appointed as the Executive Chair of the FCA on 9 March 2016. During his Speech, Mr Burke also stated that Mr Billson was 'reportedly being secretly paid by the FCA' following his appointment. Mr Burke also stated that Mr Billson failed to declare to the Committee both his new position and the income he received in respect of it.
- 5.2 Mr Billson has unreservedly apologised for the discourtesy shown to the House by failing to disclose these matters to the Committee. This apology was communicated to the Clerk of the House on August 7, 2017 and was subsequently reported on by several media outlets. The failure was purely an administrative failing on Mr Billson's behalf and was in no way a deliberate attempt to conceal his employment by the FCA.
- 5.3 In his complaint, Mr Dreyfus QC inaccurately characterizes the FCA as a 'lobby group', seemingly implying that this type of organisation or directorship is inappropriate compared to the directorship held by Members right across the House.
- 5.4 For the Committee's information, the FCA is a representative peak body for the franchise sector, providing member services, training and education programs, conferences, peer support and networking opportunities and promotion and advocacy activities. Lobbying or representational activities to Government, elected officials, policy makers and regulators are an important part of the FCA's strategic and operational activities, but far from the most prominent and major focus of

FCA resources. It is unclear why Mr Dreyfus QC's complaint seeks to advance an incomplete assertion about the not-for-profit organisation's purpose or whether it is simply the holding of a directorship that is of concern.

- 5.5 At the time of his appointment by the FCA, it was known that Mr Billson would be retiring from Parliament at the dissolution of parliament, which happened to be on 9 May 2016. Mr Billson announced his retirement from Parliament in November 2015. From this point of view, at the time of his appointment by the FCA it was known that Mr Billson was nearing the end of his career in parliament.
- 5.6 Any attempt to conceal his employment would be futile in light of the widespread media reporting on Mr Billson's appointment as Executive Chairman of the FCA. Examples of this media reporting are enclosed with these submissions as Annexure B. It is submitted that the media reporting of Mr Billson's appointment is sufficient evidence to dispel any suggestion that Mr Billson sought to conceal his appointment.
- 5.7 The underlying purpose of the public register of Member's interests is to ensure transparency and so that electors can be assured that Members' actions in the House are not influenced by 'trying to seek some personal advantage'.<sup>6</sup> That underlying public policy objective was fulfilled by the widespread media reporting on Mr Billson's appointment, which ensured that the House and, more importantly, the public was informed of Mr Billson's appointment in the context of his continued service as a Member for the final two months of his parliamentary career. It is worth noting that Mr Billson, the FCA and stakeholders to the appointment proactively promoted the appointment and openly discussed it publicly and in the media, notwithstanding Mr Billson's error to lodge a timely formal advice to update the Register of Interest before parliament was dissolved.
- 5.8 For completeness, it is noted that during the two month overlap period, Mr Billson received one instalment of \$6,250 of his FCA salary. This was paid on 13 April 2016 (being 26 days before Mr Billson ceased being a Member of Parliament on 9 May 2016).
- 5.9 In those circumstances, and noting that Mr Billson unequivocally maintains his apology to the House for his administrative failure to disclose his role with the FCA to the Committee, it is submitted that the public was adequately informed of Mr Billson's appointment by the FCA and that the circumstances illustrate simply an administrative error that Mr Billson has acknowledged, and nothing of the kind of conduct that warrants or gives rise to the serious allegations contained in Mr Dreyfus QC's complaint.

## 6. Conclusion

- 6.1 For the reasons outlined in this letter, our client has no case to answer in relation to the very serious complaints brought before the Committee. The circumstances of Mr Billson's appointment to the FCA were widely reported in the media and were not concealed. Mr Billson's duties with the FCA were obviously not in conflict with any of his duties as a Member of the House, nor did his employment with the FCA place Mr Billson in a position where his respective duties could be in conflict. Mr Billson's appointment by the FCA and informed and considered approach to it, must be viewed in the context of Mr Billson's impending retirement from parliament. All parties knew and respected the constraints on Mr Billson's activities and shared an understanding that there were no public policy issues requiring Mr Billson's advocacy on behalf of the FCA during the overlap period or that would infringe on obligations under the Statement of Ministerial Standards.
- 6.2 Ordinarily, the Parliament itself is able to deal with baseless allegations, politically-motivated tactical use of procedure and the misuse of the privileges processes. However, the fractious nature of the 45th Parliament and precarious political balance impede this self-management. It is submitted that consideration be given to steps to preserve the historical high regard and care exercised by the parliament in upholding standards and the sanctity of the privileged power intended to protect and advance the public interest. This becomes more significant when accusers seek to deploy the forms and processes of the parliament on a private citizen who is unable to engage in the parliamentary processes or related channels to counter inherent partisanship or political motivation.

<sup>6</sup> See the speech of the Honourable Lionel Bowen, recorded in Hansard, 8 October 1984, p 1874. Privileges Committee| 6 October 2017

- 6.3 It is submitted to the Committee, that evidence and factual circumstances can only lead to the following conclusions:
- (a) that the Committee thanks Mr Billson for his co-operation and willing participation, as a former Member of the House;
  - (b) that the Committee finds no issue, evidence or conduct by Mr Billson that constitutes a contempt of the House or inappropriate conduct of Mr Billson as a Member having regard to his responsibilities to his constituents, his obligations under the Statement of Ministerial Standards, the requirements of the Lobbying Code of Conduct and his duties to the public interest;
  - (c) that the Committee recognises and accepts Mr Billson's apology for his error in not lodging a timely formal advice to update the Register of Interest in relation to his appointment as a director of the FCA or before the 44th Parliament was dissolved and recommends that the parliament take no further action in relation to this matter as the public interest and disclosure objectives were served by the wide public and media awareness of the appointment; and
  - (d) the Committee recommends to the House that the process of referral of matters concerning Member conduct be reviewed so as to ensure that the Clerk undertakes a preliminary examination of information presented to the House in support of a request for precedent motion prior to the Speaker considering the request, to ensure that credible evidence and a factual basis exists for the complaint/allegation, and given the risk of harm and reputational impact on the accused arising from the current referral procedure.
- 6.4 Please let us know if you would be assisted by any further explanation of the matters outlined in this letter, or any other matters. Mr Billson is more than happy to appear before the Committee if this is helpful to its deliberations.

Yours faithfully  
**MinterEllison**

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enclosures

## Annexure A: Bruce Billson's public comments pre-March 2016

Date	Source	Comments
<b>Mr Billson's references to "Energise enterprise" pre-March 2016</b>		
17/03/2016	Mr Bruce Billson, House of Representatives	In relation to the Social Services Legislation Amendment (Interest Charge) Bill 2016:  "Whatever happens in my time, I hope in this parliament we never pass a day without respecting and celebrating those enterprising men and women—or, as I say, doing all we can to <b>energise enterprise</b> ."
16/03/2016	Mr Bruce Billson, House of Representatives	In relation to Competition and Consumer Law, Paid Parental Leave:  "Section 46 aims to ensure that those businesses with substantial market power did not use their economic muscle to win the contest to delight customers but that they had to compete on merit. This is great news for all enterprising people and is another instalment in showing how only the coalition government can put the policies in place to <b>energise enterprise</b> ".
14/10/2015	Mr Bruce Billson, House of Representatives	In relation to debate on Small Businesses:  "Last night was huge. It was the third annual launch of the Shop Small campaign. Colleagues from right across the parliament came together to <b>energise enterprise</b> . The greatest renewable energy in our country is the optimism and positivity of enterprising men and women, and this campaign is about making sure all the terrific policy settings that we have put in place to give enterprising men and women every opportunity to succeed are backed by the consumer dollar."
15/09/2015	Mr Bruce Billson, Interview with Michael Rowland, ABC News Breakfast, ABC News 24	"Small businesses are employing again, investing again, really <b>energising enterprise</b> . So that is a good foundation that the new team can work from."
15/09/2015	Mr Bruce Billson, Interview with Gilbert and David Speers, AM Agenda, Sky News	"I would love to keep doing my work for small business; we have really <b>energised enterprise</b> and what a great foundation we have for the new Prime Minister – for all the support that the small business community has received and the positive feedback that we have got from that crucial part of our community."
8/09/2015	Mr Ripoll, speech in House of Representatives	"The recent media reports of small business groups announcing their intention to campaign against the government, particularly in marginal seats, should come as no surprise to the government or the Minister for Small Business. It might be useful for the minister to remember his promise to small business people to ' <b>energise enterprise</b> ' and to deliver some 'delicious opportunities'. Well, there have been no delicious opportunities for small business from the Abbott government, just the smell of a rotten bunch."

7/09/2015	Mr Bruce Billson, Interview with Ross Green, Money News, 2GB Sydney	"Now, if we want to <b>energise enterprise</b> and see innovation, job formation, be really a part of the new economy, where there is disruptors coming in all the time with new ideas, new products, new services, they should not run into this wall of a dominant business being able to block from even having a chance to compete in the economy."
22/07/2015	Mr Bruce Billson, Press conference, Sunny Harbour Seafood Restaurant, Hurstville, NSW	"The other thing we are doing domestically is looking to <b>energise enterprise</b> . To win trade markets you need to be competitive and you need to be able to delight your customers and beat your competitors.  That means, making sure your own business is running well. That is why in our country, we are trying to remove red tape – needless costs, obstacles to businesses – innovating and meeting new customer needs."
20/07/2015	Mr Bruce Billson, Doorstop interview with Steven Ciobo MP, The Wax Museum, Surfers Paradise	"My work is aiming to <b>energise enterprise</b> . I will be meeting with a lot of local small businesses, chambers of commerce, hearing from Peter and Roslyn about their decade's long journey providing one of the great delights of the Gold Coast."
15/07/2015	Mr Bruce Billson, Interview with Chris Smith, 2GB, Sydney	"Together we need to <b>energise enterprise</b> so that we grow the jobs and support the small business community into the future. Tonight is the first start of the Council of Small Business COSBOA's Summit will be talking about passion, policies and people."
15/07/2015	Mr Bruce Billson, Interview with Robbie Buck, 702 ABC Radio Breakfast, Sydney	"Thanks for having us Robbie and let us <b>energise enterprise</b> ."
18/06/2015	Mr Bruce Billson, House of Representatives	In relation to Appropriation Bill (No. 1) 2015-2016:  "What a great example of what we are trying to achieve through this budget. We are about <b>energising enterprise</b> —that is what we are about."
17/06/2015	Mr Bruce Billson, Interview with Rafael Epstein and Mark Dreyfus QC Shadow Attorney General, 774 ABC Melbourne	"It is the story of what the government is trying to achieve—yes, it is a world of delicious opportunities; I thank the member for Oxley for the goodwill and the fact that he is getting on the <b>energise enterprise</b> Kool-Aid."  "We have got 519,000 jobs lost in small business under the Rudd/Gillard/Rudd Governments that we need to recover and that is why we are focusing on <b>energising enterprise</b> . Nice numbers, encouraging, but we have got to keep going. We do not rest on our laurels."
16/06/2015	Mr Bruce Billson, Interview with Chris Smith, 2GB Afternoons	"We have got to get those jobs back, we have got to build momentum, <b>energise enterprise</b> and that is what the Budget is all about."

15/06/2015	Mr Bruce Billson, House of Representatives	"What an exciting day for small business. We are working hard to <b>energise enterprise</b> . Key measures have now passed the Senate, and we are doing all we can to get behind those enterprising men and women to grow jobs and also help grow our economy. Today we are celebrating for small business."
4/06/2015	Mr Bruce Billson, House of Representatives	In relation to Tax Laws Amendment (Small Business Measures No. 1) Bill 2015:  "And isn't it great that those electorates represent around 300,000 small businesses that have been able to have their interests, their concerns, their aspirations, discussed in this chamber. That was a very worthwhile use of parliamentary time and a great opportunity for Australian small business men and women to know that this parliament is very focused on their interests and their ambitions and goals, and what we can do to <b>energise enterprise</b> and support their contribution to the economy and jobs."
3/06/2015	Mr Bruce Billson, Interview with Janine Perrett, Sky News, Canberra	"We have argued and fought hard to find the Budget space and you know I have worked extremely hard to make sure, having secured \$5.5 billion of funding capacity, to make sure it is applied well to <b>energise enterprise</b> ."
3/06/2015	Mr Bruce Billson, House of Representatives	In relation to a debate on Small Business:
2/06/2015	Mr Bruce Billson, Interview with Peter van Onselen and Kristina Keneally, Sky News	"I think it is time Labor fessed up to the fact that small business found the environment and the economy a harsh and hard place under Labor. We are turning that around to <b>energise enterprise</b> . It is a great small business package—the best this country has ever seen."
28/05/2015	Mr Bruce Billson, House of Representatives	"I want them, and they are now, every day, thinking about what enterprising men and women are weighing up to make an investment, to perhaps employ one more person, to <b>energise enterprise</b> and that is what Treasury is doing."
27/05/2015	Mr Bruce Billson, House of Representatives	"There is \$5½ billion of encouragement, respect, incentive and recognition—the largest package of its kind in our nation's history that will <b>energise enterprise</b> in the electorate of Fisher."  In relation to Tax and Superannuation Laws Amendment (Employee Share Schemes) Bill 2015:  "We want to ensure that Australia is one of the best places in the world to start and grow a business. The Jobs and Small Business package announced in the budget delivers further measures that will <b>energise enterprise</b> and help Australians into jobs."
27/05/2015	Mr Bruce Billson, House of Representatives	In relation to a debate on the Budget:  "It has a plan for economic recovery—to boost jobs and participation and to <b>energise enterprise</b> in small business."

27/05/2015	Mr Bruce Billson, Interview with Graham Richardson, Sky News, Canberra	"We loved every minute of it, but it is testament to the fact that this is challenging stuff and whilst I do not seek to tell small businesses how to better run their businesses I can with all sincerity and authenticity talk about having felt many of the challenges and head winds that they have felt and it underlines my personal conviction to do all I can to support enterprising Australians."
25/05/2015	Mr Bruce Billson, House of Representatives	In relation to a debate on Small Business:  "Everywhere we have travelled the reaction has been, 'What a great budget for small business.' We are happy about that on this side, because what we are trying to do is <b>energise enterprise</b> . This is an historic budget for those enterprising men and women—the next step in our government's responsible long-term economic plan to build a strong and prosperous economy and, through that, a safer and more secure future."  "There are a range of measures in this package that help small business and family enterprises, but at its heart this package is about getting behind those enterprising people and their decisions. We are not coming in telling businesses how they should run their business."  "There was also support for the formation of businesses, funding to restore proper tax treatment of employee share schemes and even getting a crowd-source equity funding framework in place.  So there are many parts to this Budget, all about <b>energising enterprise</b> ."
24/05/2015	Mr Bruce Billson, Interview with Barrie Cassidy, ABC Insiders	"This is what this package is about- to take the ambition and goals of enterprising people and turn that into action and opportunity for our economy and for people looking for livelihoods. That is the difference.  The Abbott Coalition team <b>energising enterprise</b> "
21/05/2015	Mr Bruce Billson, Doorstop interview with the Prime Minister and Matt Williams MP, CIBO Espresso Shop, Genelg	"The engine room of our economy and I know even for some young people, they are wondering what is this about, maybe this is an ambition I want to pursue in my life. That is great for our country, a Budget that <b>energises enterprise</b> "
19/05/2015	Mr Bruce Billson, Joint doorstop interview with the Hon Tony Abbott MP, Prime Minister and Mr Craig Laundry MP, Federal Member for Reid, Sydney	"And for all your listeners, if in doubt, get some good advice from your accountant. They know the ins and outs of the tax laws and make best use of this really useful measure to <b>energise enterprise</b> and put a spark in the small business economy,"
15/05/2015	Mr Bruce Billson, Interview with Ross Greenwood, 2GB Money News, Sydney	

14/05/2015	Mr Bruce Billson, House of Representatives	In relation to a debate on Employment:  "I am not surprised those opposite could not quite pick up the fact that we are <b>energising enterprise</b> through this budget, that jobs and small business were at the heart and that supporting participation, families and child care are all about putting in place the environment and infrastructure that is needed to create employment opportunities in this economy."
14/05/2015	Mr Bruce Billson, Interview with Laura Jayes, Sky News Lunchtime Agenda	"Under the Howard Government, more private sector work was offered by small businesses than big businesses. That mantle was lost under Labor. We need to get it back and we are doing what we can to <b>energise enterprise</b> in the small business economy."
13/05/2015	Mr Bruce Billson, Interview with Kumi Taguchi, 702 ABC, Sydney	"This is not the only measure the Government has been pursuing. It is the next step, Kumi in our plan to <b>energise enterprise</b> .  We have been getting rid of needless red tape and compliance burden that stood in the road of enterprising people. We have been working hard to make sure the competitive environment is fair and healthy so a small business that is efficient has every opportunity to succeed."
13/05/2015	Mr Bruce Billson, Interview with Rafael Epstein, 774 ABC, Melbourne	"We want to <b>energise enterprise</b> Raf. We have got an enormous challenge as a country to create the economic activity and the jobs that we need to underwrite and secure our future and we saw 519,000 jobs lost in small business under Labor."
13/05/2015	Mr Bruce Billson, Interview with Ross Greenwood, 2GB Money News, Sydney	"It has been really positive and really encouraging and we have worked closely with the small business community as you know Ross and drew from them their field evidence, their insights, what we could do best to support and <b>energise their enterprise</b> and that is what shaped the Budget that we announced last night."
8/05/2015	Mr Bruce Billson, Interview with Rafael Epstein, ABC Fight Club, 774 ABC	"What is constantly my focus is what we can do to <b>energise enterprise</b> , get the conditions right, get the incentives in place, encourage small businesses which are huge job generators in our economy to take that next step to invest, to grow, to recruit that extra one or two people – they are our opportunities right across our country, not just in particular regions and that is why it is such a key focus of our work and our Budget preparations."
6/05/2015	Mr Bruce Billson, Interview with David Speers, PM Agenda, Sky News	"Now you know we have halved the debt trajectory we inherited from Labor and we are tackling the deficit trajectory – that work has to continue, but at the same time we need to make choices about where scarce resources are put and we have made the decision to put those resources behind jobs, behind families and behind small business to <b>energise enterprise</b> ."
6/05/2015	Mr Bruce Billson, Doorstop interview, Yellow Belly Cafe, Googong	"We need to put momentum back into the entrepreneurs in our economy. We need to <b>energise enterprise</b> and that is what we are doing every day, and today is another instalment in that ongoing agenda that the Abbott Government has been driving."

6/05/2015	Mr Bruce Billson, Interview with Marcus Paul, 2CC Canberra Live	"For me, we have been working our tail off making sure that the largest package of support for small business that the country has seen lands well, it <b>energises enterprise</b> and we recover some of the 519,000 jobs that we lost in small businesses under the Rudd-Gillard-Rudd Labor Governments. Much to do and we are doing plenty."
14/04/2015	Mr Bruce Billson, Interview with Kieran Gilbert, Sky News Agenda	"Tax reductions need to be focused, very much focused on growth and opportunity in our economy and that is why our small business package that we have talked about for the upcoming Budget is all about <b>energising enterprise</b> ."
7/04/2015	Mr Bruce Billson, Interview with Steve Price, 2GB	"We need to recover those jobs and <b>energise enterprise</b> at a small business level, and these campaigns add nothing in that effort."
6/04/2015	Mr Bruce Billson, Interview with Helen Dalley, Dalley Edition, Sky News	"The Prime Minister has already made it clear in his speech to the National Press Club that a 1.5 per cent cut to the small business company tax rate is the starting point. As you introduced this segment with, we have been working on other measures too, to <b>energise enterprise</b> ."
29/03/2015	Mr Bruce Billson, Interview with Ross Greenwood, 2GB Sunday Business, Sydney	"There is no single silver bullet Ross; small businesses and family enterprises are very diverse and we need to recognise that diversity and bring together a range of measures that <b>energise enterprise</b> ."
24/03/2015	Mr Bruce Billson, Interview with Kieran Gilbert, AM Agenda, Sky News	There is no single silver bullet that will <b>energise enterprise</b> to create the momentum for jobs growth and employment and a stronger economy. We need a range of things and that is why we are developing this package so that we can put that ..."
24/03/2015	Mr Bruce Billson, Interview with James Glenday, ABC Capital Hill, Press Gallery, Canberra	"This will be a very exciting step to <b>energise enterprise</b> in our economy and therefore grow jobs and grow the economy."
17/03/2015	Mr Bruce Billson, House of Representatives	In relation to a debate on Small Business:  "That is why I am working so hard on the small-business package that the Prime Minister announced to <b>energise enterprise</b> to drive jobs and economic growth. True to form, it is the Liberal and National parties getting behind these enterprising men and women who take risks, who mortgage their homes, who apply themselves day in, day out and who use their talents to create opportunities for themselves, others and their communities."
5/03/2015	Mr Bruce Billson, House of Representatives	In relation to the Intergenerational Report 2015:  "I think the Australian men and women of small business are ready for this challenge, but they need this parliament to get behind their efforts and their enterprise. I know that on this side of the House we are doing all we can to <b>energise enterprise</b> ."

2/03/2015	Mr Bruce Billson, Interview with Greg Jennett, ABC News 24	"And we have made it clear that bigger enterprises will not be disadvantaged. What this is about is <b>energising enterprise</b> ."
12/02/2015	Mr Bruce Billson, Interview with Chris Uhlmann, ABC News 24	This important opportunity to energise enterprise at the end of the economy that gives us the vitality in our community and our best prospects for jobs growth.
12/02/2015	Mr Bruce Billson, Interview with David Speers, Rowan Dean, Sean Kelly and Tony Bourke on Sky News, 'The Nation', Canberra	"I have had some discussions with my colleagues and you would be very reassured to know many of our senior colleagues... And David, the good thing is the small business community knows the only friends they have in the Parliament are the Coalition so they are very forthcoming in ways in which we can recover the jobs lost under Labor, <b>energise enterprise</b> at that small business and family enterprise level."
12/02/2015	Mr Bruce Billson, Interview with Chris Uhlmann, ABC News 24	"Not all are companies. You have got sole traders. You have got those operating through partnerships. Those independent contractors and the self-employed – we are looking at what we can do to <b>energise enterprise</b> ."
2/02/2015	Mr Bruce Billson, Interview with Rafael Epstein, 774 ABC Melbourne	"I know for the people that I work very hard for in my community and also the small business community – 519,000 jobs were lost in small business under the Rudd Gillard Rudd Government.  We need to arrest that decline and re- <b>energise enterprise</b> . That is great for the economy, great for job creation and that is what I got elected to do and putting all of my energy in to."
29/01/2015	Mr Bruce Billson, Interview with Michael Spooner, ABC Mid North Coast	"We get first hand field evidence from small business operators about what they are seeing, how our policy program is being rolled out, its benefits for local small businesses and also good advice on what else we can do to <b>energise enterprise</b> ."
15/01/2015	Mr Bruce Billson, Interview with Stuart Bocking, 2UE Business, Sydney	"Good to talk to you and keep that focus on <b>energising enterprise</b> for the new year."
19/06/2014	Mr Bruce Billson, House of Representatives	In relation to Appropriation Bill (No. 1) 2014-2015;  "My advice would be to speak with your local small businesses, as I do, and remind them that we are doing our utmost to get rid of the carbon tax, to <b>energise enterprise</b> in this economy and to get rid of those headwinds and burdens that are slowing the growth and potential of small business."
2/06/2014	Mr Bruce Billson, House of Representatives	In relation to a debate on the Economy:

28/05/2014	Mr Bruce Billson, House of Representatives	<p>"The good news for those 12,200 businesses in La Trobe is we actually have a plan, the only plan, to not only fix the budget mess but to <b>energise enterprise</b> in this country to see what we can decisively do to stop this loss of employment that is causing such hardship and loss of livelihoods right across our economy and right across our continent."</p> <p>In relation to a debate on Small Business:</p> <p>"What have we offered? We have got tax cuts, the incentive of lower company tax, getting rid of the carbon tax that has been so punishing to the small business community and getting that infrastructure package going not only to shift commuters but to shift commerce to <b>energise enterprise</b> in our country."</p>
<p><b>Mr Billson's references to "small business and family enterprise ombudsman" pre-March 2016</b></p>		
17/03/2016	Mr Bruce Billson, House of Representatives	<p>"The grocery code reforms—there seems to be a pattern here. It seems to be me versus some of the biggest businesses in the country. There we got a result as well with the grocery code of conduct. There were the franchising reforms, the unfair contract terms protections, the Small Business and Family Enterprise Ombudsman, the employee share scheme reforms that we got through and the crowdsourced equity funding framework."</p> <p>"So you would get given this take it or leave it standard form contract and then be told that one party can cancel it and the other can't."</p> <p>Those sorts of things we are addressing as well.</p> <p>Small Business and Family Enterprise Ombudsman- more to happen."</p>
25/06/2015	Mr Bruce Billson, House of Representatives	<p>"That is remedied and that is another opportunity for small business. We have seen introduced for the first time in this country legislation for an Australian small business and family enterprise ombudsman"</p>
17/06/2015	Mr Bruce Billson, Interview with Rafael Epstein and Mark Dreyfus QC Shadow Attorney General, 774 ABC Melbourne	<p>"Free trade agreements, Food and Grocery Code through the Parliament, better targeting of income support, nice \$52 a fortnight boost for pensioners and making sure that those that need income support get a decent pension, the Small Business and Family Enterprise Ombudsman – there is so much positivity going on yet we have this circular conversation Raf."</p>
17/06/2015	Mr Bruce Billson, Interview with Peter Van Onselen, Sky News	<p>"The Small Business and Family Enterprise Ombudsman, the election commitment we took - that has passed the House of Representatives today. So there is a lot going on."</p>
3/06/2015	Mr Bruce Billson, Interview with Janine Perrett, Sky News, Canberra	<p>"Secondly Janine, you and I both know when small business is involved in a dispute, particularly with a big business or a government department, small business invariably loses. They run out of money, patience, their own mojo – this needs to be fixed so we have got this small business and family enterprise ombudsman advocating</p>

	small business interests throughout the bureaucracy complementing the work that I do at Cabinet and also offering a concierge service for dispute resolution."	
01/04/2015	Interview with Fran Kelly, ABC Radio National Breakfast	"That is what Section 46 is seeking to do. It characterised as exclusionary behaviour in a broad sense and it is purely about that Fran. That is what is saying 'Are dominant businesses able to freeze out or impede or block or in some way inhibit the ability of other less dominant businesses to engage in the economy to make their offer to consumers and to compete for that business on the basis of merit, not pure economic muscle?'"
31/03/2015	Mr Bruce Billson, Joint press conference with Professor Ian Harper, Melbourne	"The Government's initiative for a small business and family enterprise ombudsman to get an alternative dispute resolution pathway in place so that we can resolve differences and everyone can get back to business and that is in everybody's interest. Because in many cases if a matter ends up in the court. Often the small parties are on the back foot before that even begins."
7/02/2015	Mr Bruce Billson, House of Representatives	"Also there was the establishment of a dedicated advocate for the small business community who would be working alongside a cabinet-level minister—a small business and family enterprise ombudsman. It is about giving small business a say at some of the major economic agencies and forums, such as the board of taxation, getting our competition laws to give small business half a chance in a competitive economy and getting the government off the back of small business through reductions in red tape."
21/11/2014	Mr Bruce Billson, House of Representatives	"It does highlight, though, a policy initiative that the coalition has proposed—that is, the need to appoint a small business and family enterprise family ombudsman for a range of reasons: in dispute mediation and for a proper strong voice to be heard within the halls of power, something that you could never suggest happens at the moment with the current government; they seem to have this horrible disposition of hostility and combativeness towards small business and family enterprises."
12/09/2014	Mr Bruce Billson, House of Representatives	"This is an area of some concern. This space touches on it; I mentioned the domain name example earlier. I would encourage the government to turn their minds to these kinds of practical challenges that are being experienced by small and microbusinesses to find some remedies that are affordable and accessible. We had some ideas prior to the election about a small business and family enterprise ombudsman and some dispute resolution processes."
19/06/2014	Mr Bruce Billson, House of Representatives	"Why? Because there is no interest. We have not heard a peep from Labor about that. Implementing the franchising reforms; making sure our procurement changes give small business a chance; implementing the drought support package, crucial for small businesses operating in farming communities; our Paid Parental Leave scheme, what a great measure to give small businesses the same opportunity to recruit that government and the big corporates have; the Emissions Reduction Fund, a chance for small businesses to participate in that; the Small Business and Family Enterprise Ombudsman, a role with tools and teeth. There are so many opportunities. We are implementing our policies. I just wish Labor would get out of the road."
04/06/2014	Mr Bruce Billson, House of Representatives	"But there are also particular measures. The company tax cut: 800,000 small businesses are structured as companies, and they will welcome that 1.5 per cent reduction in the company tax rate as a clear statement of encouragement to invest, to grow, to employ. The small business and family enterprise ombudsman measure:

		again, a practical measure to problem solve, to help small businesses navigate government programs and the opportunities for support, and to get access to reliable information."
21/03/2013	Mr Bruce Billson, House of Representatives	"Unlike Labor, the coalition has a very clear plan to address concerns around competition in Australia with a root and branch review of our competition laws and by extending unfair contract terms protections. We have proposed a small business and family enterprise ombudsman, one with a purpose, one with powers, one with tools to actually make a difference and one that will get involved where existing code mediation processes do not have the confidence of the parties that are subject to that code. We also want to see an end to these unilateral rebates, and we think the unfair contract term protection provisions will achieve that."
26/11/2012	Mr Bruce Billson, House of Representatives	"We want to extend the unfair contract provisions so that small business has the same rights as consumers, and also to enhance small business access to government procurement and contract opportunities. The establishment of a small business and family enterprise ombudsman, and our commitment to a root-and-branch review of competition laws, will also help to level the playing field so small businesses get a fairer go competing with big business and big unions."
19/06/2012	Mr Bruce Billson, House of Representatives	"In that light, you would be aware of some commentary that there is concern about what you have called the small business commissioner. For those listening, this is not the small business commissioner we already have in the ACCC, but is a rebranding by the government of the small business and family enterprise ombudsman the coalition has been promising."
29/05/2012	Mr Bruce Billson, House of Representatives	"They were appointed by the coalition in 1999. What the small business minister was trying to do was mimic the coalition's commitment to a small business and family enterprise ombudsman, but he did not want to make it so obvious that it was a policy lifted from the coalition that he gave it a name—a name which already applies to an existing role in the ACCC. So what you find is this effort by the government to mimic coalition policy but then trying to make it look like it was not a direct lift by changing the title and then coming up with a title that already exists for an existing role with some powers in the ACCC."
<b>Mr Billson's references to section 46 of the Competition and Consumer Act - pre-March 2016</b>		
14/09/2015	Mr Bruce Billson, Interview with Greg Jennett, ABC Capital Hill	"I hope so because I think the argument is compelling. In our economy, we want to be able to ensure that efficient businesses, big and small, have the chance to thrive and prosper. The effects test, for those that aren't up with the jargon, relates to a part of the law that deals with the misuse of market power."
7/09/2015	Mr Bruce Billson, Interview with Ross Greenwood, Money News, 2GB, Sydney	"The one that is particularly contentious is the one you referred to; Section 46. It is known as the 'misuse of market power' provisions in the current law. Frankly, it is a dud. It does not work. It is like a hunting dog that won't leave the porch."
01/09/2015	Mr Bruce Billson, Interview with Kieran Gilbert, AM Agenda, Sky News, Canberra	"Let's be clear. We have done, we have had a Harper Review which is what we took to the election and an independent, objective, sober analysis of our competition framework. Not just the laws, but competition policy and the institutional arrangements."

	<p>Fifty-six recommendations. Very important recommendations about the access regime, concerted practice, how the ACCC is organised – those things are very important. One of those recommendations related to Section 46, which is the misuse of market power provision."</p>	
01/09/2015	<p>Mr Bruce Billson, Interview with Jon Faine, Mornings, ABC 774, Melbourne</p>	<p>"One of the problems we have got now with the current misuse of market power laws is that it does not actually work. It does allow dominant firms to essentially fortify their position, if I could use that term Jon, where they can engage in exclusionary conduct that sort of freezes out other competitors and new offerings."</p>
12/08/2015	<p>Mr Bruce Billson, Interview with Peter Van Onselen, Sky News, Canberra</p>	<p>"I would invite critics to actually look at what is proposed. They will see this is not about advantaging one part of the economy over another, this is about getting our laws right so a specific provision that people talk about, a misuse of market power provision actually works.</p> <p>We are in an economy where we have got many duopolies and oligarchies in a range of different economic sectors and we rely on this misuse of market power provision to make sure dominant businesses do not behave in an anticompetitive way that harms the economy."</p>
4/08/2015	<p>Mr Bruce Billson, Interview with Alan Jones, 2GB, Sydney</p>	<p>"The recommendations from an independent panel that the Government established was to conclude - as we have discussed before, Alan - that Section 46, this misuse of market power provision does not quite live up to its billing, or as I have said, is a hunting dog that won't leave the porch."</p>
17/06/2015	<p>Mr Bruce Billson, Interview with Peter Van Onselen, Sky News</p>	<p>"The Small Business and Family Enterprise Ombudsman, the election commitment we took - that has passed the House of Representatives today. So there is a lot going on."</p>
01/04/2015	<p>Mr Bruce Billson, Interview with Fran Kelly, ABC Radio National Breakfast</p>	<p>"The courts have sought to interpret section 46 – the misuse of market power provision – there is wide spread recognition that it has been very narrowly defined. It certainly does not behave in a way that the law makers anticipated."</p>
31/03/2015	<p>Mr Bruce Billson, Joint press conference with Professor Ian Harper, Melbourne</p>	<p>"Section 46 I have characterised, in some cases, is a hunting dog that will not leave the porch. As it is currently drafted, it promises much but in many occurrences has fallen short of what I feel the lawmakers anticipated and what many in the market place believed it should achieve."</p>
12/02/2015	<p>Mr Bruce Billson, Interview with Chris Uhimann, ABC News 24</p>	<p>"Ironically, Labor wanted to give a \$1.1 billion gift to the biggest businesses in town while we are trying to focus our energy and resources that are scarce on small and family enterprises where we think the job opportunity and growth drivers will be into the future."</p>

13 November 2017

Ross Vasta MP  
Chair  
Standing Committee of Privileges and Members' Interests  
P O Box 6021  
Parliament House  
CANBERRA ACT 2600

Dear Mr Vasta,

#### **COMMITTEE INQUIRY**

Thank you for your 26 October 2017 letter addressed to Mr Peter Bartlett, Partner, MinterEllison following up on his submission lodged on my behalf in relation to two formal matters before the Committee.

I was grateful for the time and consideration the Committee Secretary afforded me when I called seeking some guidance on Thursday, May 2, 2017.

Mr Bartlett forwarded your letter to me in response to my concerns about the mounting legal costs.

The original accusations made against me by Mr Burke were extremely broad, and included malicious implications of criminal conduct and corruption that Mr Burke ought to have been known were false and baseless. Mr Burke's commentary that preceded the Committee's work was very serious and damaging, and warranted commensurate legal expertise to deal with the content and omission of facts in Mr Burke's accusations that ultimately created a misleading impression that needed to be comprehensively addressed.

As the Committee's questions appear directed to my lack of timely notification of matters under the Registration of Members' Interests resolution, I welcome the specific nature of the Committee's deliberations, and the opportunity for a personal response.

I have sought to answer the Committee's questions fully and with candour in order to fulfil my undertaking to fully co-operate with the Committee's work. The attachment includes the specific questions put to me on behalf of the Committee and my answer in bold text for your convenience.

I acknowledge (and have previously acknowledged) my failure to provide timely declarations of registrable interests during my transition to a post-parliamentary life concerning my appointment as a director and the part-time Executive Chairman of the FCA and receiving payment for this role; and for activating Agile Advisory and receiving payment a friend who was a client while still a member of the House.

My attention to my post-political transition should not have resulted in a diminished adherence to complying with the timely notification requirements of the Registration of Members' Interests to which I had been so reliably attentive for 2 decades.

Again, I apologise for my administrative error and oversight, and the discourtesy to the House this represents, and reiterate my preparedness to formally convey my sincere regret to the House in a form the Committee considers appropriate. A formal letter of apology has been sent to the Speaker.

Yours sincerely,

The Hon Bruce Billson

P O Box 3373, Mornington VIC 3931

## Questions to be addressed to Mr Billson

1. The House of Representatives was dissolved on 9 May. On that day you ceased to be a Member of the House.

We would like to confirm the date you (Mr Billson) commenced employment with the Franchise Council of Australia (FCA). The submission from your lawyer states the date as 9 March 2016 – is that correct?

**Yes – my engagement on a part-time basis as the Executive Chairman and independent director of the FCA, commenced on 9 March 2016**

2. i) Is it correct to think that you knew the terms of your employment, including in relation to salary, at that time, 9 March (or other date if different)?

**That is correct.**

**It is noteworthy that an extensive executive search process for the position of Executive Chairman preceded my receipt of the offer for this position.**

**I was originally approached in relation to the CEO role but declined to be a candidate. In light of this decision, the search consultant, under instructions from the FCA, inquired about my interest in a restructured Chairman's role.**

**Before discussing particularities in relation to salary, there were preliminary discussions between myself and the FCA pertaining to a number of important matters.**

**First, for me, as was the case for a retiring Labor MP who was also short-listed, there were discussions in relation to the limitations on the activity that a Sitting Member could be involved in, and in my case, the restraints under the Ministerial Code.**

**Second, I had made it clear that I planned a portfolio of activities for my post-political life (including building my own business, Agile Advisory) and that I was only prepared to commit to no more than a notional 1 day per week of largely after-hour time for any work with the FCA.**

**Once these issues had been discussed and overcome, we engaged in initial discussions with respect to indicative director's fee/salary expectation and an acknowledgment that the details would need to be worked through with FCA Board given what was being discussed was a new role.**

**These discussions culminated in a 9 March 2016 meeting with the FCA's lawyer and the director leading the recruitment process. At this meeting, I was presented with a proposed agreement. This document adequately reflected the key terms discussed and represented the proposed remuneration being offered.**

**There was some urgency from the FCA to finalise and confirm the appointment of the Executive Chairman role as there was an imperative to have the Executive Chairman involved in the CEO selection process that remained ongoing at the time of my appointment. Given the urgency and that I was satisfied with the agreement, I signed it and also completed and signed an ASIC director nomination form.**

- ii) If not, when did you know the terms of your employment in relation to salary?

**Not applicable**

3. i). Could you confirm, as stated in the submission, that you received payment from the FCA on 13 April 2016 in relation to your employment?

**Yes, I can confirm this. A payment record from the FCA or declaration from the auditor can be provided to the Committee if required.**

ii). Was that the first payment you had received from the FCA?

**Yes.**

4. I). For completeness, have you received payment for personal services or employment from any other non-parliamentary sources over the course of your parliamentary career?

**(a) In relation to payment for employment:**

**Subject to Agile Advisory, no payments have been received for employment from any other non-parliamentary source over the course of my parliamentary career.**

**(b) In relation to payment for personal services:**

**I received income for the personal services enterprise, Agile Advisory, for which I am the founder and sole director. As disclosed in the 7 March 2015 update to my Statement of Members' Interest, Agile Advisory P/L had been activated, replacing the long dormant Exquisart P/L (which formerly operated our family retail business, Beauty & the Beach, sold some years earlier) as the trading entity of the Billson Family Trust.**

**At that time I had begun advising a personal friend as a client as part of the activation of Agile Advisory and my transition to a post-political private sector career.**

ii). If yes, could you please tell the Committee about the circumstances of those other payments? Have those payments been disclosed on the register?

**Agile Advisory was activated to make productive use of my available personal capacity in the approach to the 2016 election which was my ceasing being a Member, and had begun to assist a personal friend who was founder/CEO of a small technology business with business coaching, strategy and personal branding advice.**

**I had received payment for the provision of these advisor services. I acknowledge that a further timely disclosure of this to the register was required before the Parliament was dissolved. However, due to an oversight, this disclosure was not made.**

5. The submission from your lawyer implies that it is within the letter of the resolution of the House not to declare the payment from the FCA on 13 April 2016 as 28 days had not expired by the time the House was dissolved and you ceased to be a Member ... etc.

Can you please clarify that it was your view that the non-disclosure of the employment with the FCA was within the requirements of the register?

**The submission simply sought to convey the objective fact as to the timing of the payment. Commentary surrounding the matter contained wild misrepresentations of the facts and I felt this needed to be clarified for the Committee's benefit. The reporting suggested that I had been paid in March 2016, and may have received the full \$75,000 salary at that time.**

**In addition, reported media comments (SMH, August 9, 2017 - "Supping with the Devil ..") attributed to "a Liberal MP, who described Mr Billson as a friend, said: 'You can line a job up while you're still in the parliament but it's another thing altogether to start pocketing the coin'", seemed to convey at least one sitting member's view that declaration applied to the receipt of payments.**

This interpretation conveyed in the report seems to suggest that lining up and settling commitments for future 'other substantial sources of income' does not warrant disclosure and that disclosure is only triggered by the actual receipt of payments. This is not an interpretation or view I share and at odds with the standards transparency and integrity I sought to uphold during my 20 year parliamentary career.

There was no conscious or considered decision for me not making another disclosure in the 8-week window between my last disclosure on the 7 March 2016 and the 9 May 2016 dissolution of Parliament.

The non-disclosure of my part-time appointment was an error and oversight on my behalf and not something considered or calibrated against the specific provisions of the resolution. I was unaware of the payment timetable until required to research this matter in order to respond to the Committee's inquiries.

6. Is it your view, as stated in the submission, that a public announcement of your employment with the FCA is an adequate substitute for obligations as a Member of the House to declare registrable interests, as required by a resolution of the House?

To be clear, the submission does not assert and does not intend to assert that a public announcement of my part-time employment with the FCA is an adequate substitute for obligations as a Member of the House to declare registrable interests, as required by a resolution of the House. The submission is simply intending to convey the fact that there was no deliberate concealment on my appointment with the FCA, evidenced by the fact that it had entered the public domain and that I did not endeavour to suppress it from entering the public domain. For clarity, this does not excuse or justify my failure to make a timely declaration of the registrable interest as required by a resolution of the House.

The House resolution should simply be acted upon and I failed to do so in a timely and adequate way as my parliamentary career approached its announced conclusion.

Disclosure, transparency and the timely airing of interests helps to ensure that the political process is free on influences that may be contrary to the public interest and good governance.

Timely formal notification to ASIC of my appointment also occurred.

The material provided to the Committee aimed to demonstrate how, notwithstanding and without diminishing the seriousness of the non-compliance with the House resolution in anyway, the policy objective and public interest were advanced by actions outside the parliament.

The submission seeks to further demonstrate how my scenario contrasts with other cases of non-disclosure. In numerous other cases, relevant facts were publicly 'revealed' by third party inquiry or by virtue of investigation. In contrast to my openness to the media and the public about my new position, some Members have been pressured to make public relevant circumstances and to amend/update parliamentary declarations due to their secrecy and concealment.

I believe Members are obligated to simply uphold and honour the House registrable interests resolution, and that there is no external equivalent or proxy action to substitute for this Members' duty to the House.

7. i). Did you seek any advice in relation to your situation in or before March 2016?

**No advice was sought specifically in relation to the requirements of the disclosure requirements for the Registration of Members' Interests and my appointment to the part-time Executive Chairman/Director role with the FCA. Over my 20 years of parliamentary service I had endeavoured at all times to fulfil my disclosure responsibilities and to seek advice from the Clerk's office as and when needed.**

**There was no conscious or considered decision or manipulative interpretation for my failure to make another disclosure in the 8-week window between my last disclosure on the 7 March 2016 and 9 May 2016 dissolution.**

**The non-disclosure of my part-time appointment was an error and oversight on behalf in my final weeks as an MP, by failing to make further timely disclosures before parliament was dissolved.**

**I did seek confirmation of my understanding of my obligations under the Statement of Ministerial Standards.**

- ii). If yes, from whom did you seek advice?

**Not applicable to the Registration of Members' Interest obligations.**

8. The Committee's Explanatory Notes in relation to registrable interests. Copies of which are provided to all members to assist them in their declarations, state that:

**No form can cover all possible circumstance and Members should consequently bear in mind the purpose and spirit of the return in deciding which matters should be registered.**

In hindsight, do you think it was appropriate:

- i). not to declare as registrable interest your employment by the FCA and payment received from the FCA?

**No – as stated above, I do not excuse or justify my failure to declare as a registrable interest, my appointment by the FCA, other than to submit that it was a legitimate oversight.**

**There was no conscious or considered decision or cute interpretation for me not making another disclosure in the 8-week window between my last disclosure on the 7 March 2016 and 9 May 2016 dissolution.**

and

- ii). to be employed by the FCA and to receive payment from the FCA before you ceased to be a Member of the House?

**While I believe it was inappropriate to not disclose it through the proper parliamentary channels, I do not believe that it was inappropriate to accept appointment and payment from the FCA.**

**At the time and for a considerable period that followed, there was no suggestion that my appointment to the Board as Executive Chairman and Director of the FCA was anything but appropriate.**

The messages of congratulations, encouragement and acknowledgement that the appointment was in keeping with my passion for small business and desire to continue to work to 'energise enterprise' was received from right across the Chamber/political spectrum, from regulators, opinion-leaders, media, political commentators, industry association and members of the public. All of the positive comments I received confirmed my assessment that the role was a good fit and an appropriate 'night job' as I transitioned from parliament to a post-political life. There was no mention or suggestion of it being inappropriate.

Great care was taken in ensuring that my appointment in no way diminished my commitment to and representation work for the Dunkley community, influenced my role and judgement as a Member, presented any conflict or risk of conflict with my role as a Member of the House, risked any infringement on my duties and obligations under the Statement of Ministerial Standards or Lobbying Code of Conduct, or could be considered as concealed, hidden or not known publicly.

Nor is there any evidence to even remotely suggest that my work as a Member of Parliament was diminished or compromised in any way.

Given the full public transparency, extensive media reporting and commentary about my appointment, any apparent problem or concern might have raised a critical comment at the time. But it did not. There was no adverse views expressed or critical observation was uttered during any conversation at the time of my appointment, in the weeks remaining while I was also a Member of the House or in the months that followed.

As I have repeatedly stated, the right and proper course of action would have been for me to make further disclosures in the 8-week window between my last disclosure on the 7 March 2016 and 9 May 2016 dissolution. In hindsight, of course I should have done that.

I concede that an appointment of a similar nature after the election would have potentially negated the need for this Committee process on the basis of factual circumstances. However, given the baseless, vicious and personal nature of the politically-motivated attacks directed at me and the contrivances and supposition I have been forced to defend against, I imagine an accusation that the role was 'lined up' before parliament was dissolved may have seen me still the subject of the Committee's deliberations.

9. The submission states you have apologised to the House. The Committee is aware that you spoke to the Clerk by phone and has seen an email you sent to a journalist about this matter and copied to the Clerk. The Committee is not aware of any other correspondence available at the House of Representatives in relation to the matter.

i). Has there been other correspondence, which might constitute an apology to the House?

**No.**

ii). If yes, could you please forward to the Committee copies of that other correspondence?

**Not applicable.**

10. The Committee considers that the informal contacts referred to above would not satisfy description as an apology to the House.

Would you now consider making a formal apology to the House [potentially addressing being employed by the FCA while a Member of the House, receiving payment from the FCA while still a member of the House, and for failing to declare these as registrable interests]?

**I accept the Committee's position that the informal contacts I have made through the Clerk do not satisfy description as an apology to the House.**

**As a non-Member private citizen with no previous involvement in or personal experience with matters of this kind, it was not clear to me what form or mechanism was most appropriate or preferred for conveying my sincere apology to the House.**

**Of course, I'm prepared to make a more formal apology to the House in a form the Committee considers to be satisfactory. It would address my failure to provide timely declarations of registrable interests during my transition to a post-parliamentary life concerning my appointment as a director and the part-time Executive Chairman of the FCA and receiving payment for this role; and for activating Agile Advisory in beginning to assist a personal friend who was founder/CEO of a small technology business for which I had begun to receive payment.**

11. Do you have any views as to how issues of this nature might be more effectively highlighted for the attention of Members of the House?

**Yes, I do have views for the Committee's consideration. These are my personal views and should not be construed as the views of others, including the FCA.**

**a). Provision for a "Final Declaration"**

**I submit that the House's Registration of Members' Interest resolution be amended to provide for the lodgement of a 'Final Declaration' within 14 days of the parliament being dissolved.**

**In my own case, at no time was there a decision to avoid lodging further declarations but that the lack of timeliness in me making a further notification meant the opportunity to do so expired. No mechanism exists for further material to be included in the Register once the parliament is dissolved.**

**I understand I am not the only retiring Member who would have valued this opportunity.**

**The public interest and policy objectives would be well served by a final formal process of completing the Register for the parliament before a new parliament is formed.**

**All Members, retiring, contesting the election and those returning would be assisted and the transparency objective would be advanced. You may observe a considerable gap in the period between last notification and the dissolution of the 44<sup>th</sup> parliament.**

**Retiring Members would be able to add to the Register relevant information arising since their previous notifications. Recontesting Members may have matters that would otherwise be the subject of notification not included in the register and available for electors to consider before casting a vote.**

**For an unsuccessful recontesting candidate, there is a risk of political attack and accusation after the election which may be pure supposition for which they will have little capacity to respond. Alternatively, matters requiring disclosure but not the subject of notification before parliament is dissolved may not become known despite potentially being a factor electors would like to have known before casting their vote.**

**For successful recontesting candidates, Members are required to disclose in their initial Registration of Members' Interests to the new parliament matters that require disclosure from**

the time the previous parliament was dissolved. The first disclosure of a returning Member is not required to cover the period from the last notification to the previous parliament and the dissolution. A notification hiatus exists that might otherwise have included matters requiring disclosure of interest to the House, electorate and public.

My proposal for a 'Final Disclosure' is a constructive and practical way of addressing these concerns.

Interestingly, retiring Members are afforded an opportunity to provide a 'farewell message' in the weeks following their leaving parliament, which is incorporated into a volume and published. Few retiring Members took up this opportunity and in hindsight I would have happily traded a well-intended chance to pen and publish a farewell message for a 'Final Disclosure'.

**b). Eligibility for payment or future income**

The comment from an unnamed Member in the August 9, 2016 edition of the SMH (referred to in question 5 above) suggests an interpretation of the current resolution of House as it relates to payments, that actual receiving of the payment is the trigger for notification.

Please forgive the accounting references, but this 'cash basis' for notification is not my understanding of the resolution which embrace more of an 'accrual basis' for notification.

Perhaps the clause 10 of the Explanatory Note regarding 'the nature of any other substantial sources of income' could be amended to refer to 'payments' as well as 'income'. This might better reflect interests in commercial undertaking where income may not be known until well after the end of the financial yet monies may have been received.

The clause could also capture agreements, undertakings or eligibility for future payments or income through an 'accrual accounting' lens to deal with circumstance where roles and/or arrangements were entered into for which payment had not be received during a Registrable Interests notification period but was agreed to.

**c). Public disclosure**

There is no apparent recognition of the difference between a failure of timely disclosure of a relevant matter (as an administrative failing, oversight or expiration of time) for which there is wide public awareness, from matters subsequently 'revealed' (even perhaps arising from administrative failing, oversight or expiration of time) or from where the matter requiring disclosure appears to be have been concealed.

It is submitted that some calibration of alleged infringement handling and resulting sanction is warranted to reflect the differing nature and circumstance of the non-compliances, the nature and degree of public disclosure, and perceived harm to the public interest and good governance.

**d). Raising of Allegations and Parliamentary Privilege**

There appears to be an apparent lack of constraint around the raising of matters of this kind, the airing of allegations or putting of suppositions attacking a former Member in a highly politically-motivated way.

Current Members have the forms of the House to rebut or challenge false statements and baseless allegation. Former Members have no such capacity but seem to be treated as 'fair game' politically and in the media.

The allegations targeted at me including the accuser referencing criminal matters were baseless. The so-called 'evidence' was assembled to create a contrivance of serious wrong doing, when the

information relied upon was highly selective and if objectively reviewed, was incapable of supporting the serious accusations being advanced under parliamentary privilege.

While it is understood that the Committee is only examining matters relating to its charter, in my view the way the spiteful accusations of criminal wrong doing were raised and were in the parliament as part of the precedence motion debate, were embedded in the House's forms and procedures and then given credence by a referral to the Committee, with accompanying media amplification, was an abuse of process.

This politically-motivated action was designed and has succeeded in causing reputational harm, personal and family distress, a diminishment of my capacity and credibility to advocate on behalf of the SME franchise community and to cause considerable costs to be incurred.

With considerable harm caused directly as a result of the way this campaign was pursued, it is submitted that the forms and procedures of the House should be amended to allow for an accuser to simply state that they believe a contempt of the House or a breach of a resolution (including in relation to the Registration of Members' Interests) may have occurred and that any material they believe they have in support of the allegation be supplied to the Clerk.

The commentary under parliamentary privilege would be contained to a statement of a well-founded belief that there has been an infringement by Member/former Member X, the nomination of the specific resolution/House requirement the accuser asserts has been infringed and that material relied upon to give foundation their belief/support the allegation is to be handed to the Clerk.

e). Pre-assessment before Referral motion

My understanding is that the Speaker is not able to undertake his or her own inquiries as to the veracity, objectivity, balance and completeness of the material provided in support of a request for precedence.

The process sees the Speaker left to form a 'prima facie' view on only the material and argument provided by the accuser. Dubious and unsubstantiated allegations are difficult to deal with by the Speaker as he/she would be required to make a unilateral determination and theoretically risk a motion of dissent from a precariously balanced House.

The result is that a decision is taken to 'activate the Privileges Committee process while making no judgement about guilt'.

Regardless of the merit of the referral, the public and media take-out is that Member/former Member X has been referred to the Privileges Committee with the odium that accompanies such a referral. The damage is done to the targeted individual.

Instead of this current 'wave through' process, where the mere accusation can activate the Privileges Committee referral, there should be a bona fides assessment of the purported 'evidence' alongside accessible and available additional information by the Clerk. The Clerk would then report back to the Speaker (as a kind of parliamentary DPP), as to whether a case to answer credibly exists free of the political motives, and what is recommended as a considered course of action to deal with the allegation.

It may well be that this objective 'pre-assessment' review of the material available before the House considers a referral motion changes nothing in a hyper-political environment. But I submit that it may inject some objectivity into the deliberative process and give the appearance of a fairer, more balanced and non-partisan treatment of the accused.

**f). Responding to Committee Reference**

In the absence of credible evidence to support broader accusations and a lack of clear delineation of what the Committee is concerning itself with, respondents are left to imagine what is in the mind of the Committee arising from the allegations and seek to address these matters.

In this context, the commitment of considerable resources and distress this process creates is unnecessary and unwarranted.

If, as I subsequently learned, the Committee is not considering the unsupported allegations of serious impropriety including baseless accusations of a criminal nature, an early identification of what the Committee is not considering would have been welcome.

For future referrals that arise that may be surrounded by wide ranging accusations or part of a broader spiteful and baseless political and media campaign, the Committee might consider issuing an early public statement about matters that it is not considering or has dismissed for lacking an evidentiary base or clearly without merit.

**f). Former Member engagement**

The processes for how the Committee engages with former Members warrants some reflection.

The inability to defend one-self against accusations made under parliamentary privilege, to present a counter-argument or account of the motivations for the attack also under parliamentary privilege, the absence of an imperative for a parliamentary defence, the lack of ready-access to research tools and relevant records and not being a 'peer' to those casting judgment, all significantly impede a former Member's engagement and increases the risk of unwarranted and disproportionate reputational harm and personal distress.

If the Committee is inclined to continue to be engaged in matters involving former Members and that Committee members are likely to become former Members, consideration as to how the form and procedures of the House and Committee operate to serve the public interest and good government, in a less prejudicial and more procedurally fair way is warranted.

13 November 2017

The Hon Tony Smith MP  
Speaker  
House of Representatives  
P O Box 6021  
Parliament House.  
CANBERRA ACT 2600

Dear Mr Speaker,

**LETTER OF APOLOGY**

I formally write to you, and through you to the House, to convey my sincere apologies for my failure to adequately uphold my obligations as a Member, as required by the House resolution, in relation to the timely declaration of registrable interests in the 44<sup>th</sup> parliament.

There was no conscious or considered decision for me not making another disclosure in the 8-week window between my last disclosure on the 7 March 2016 and dissolution of the House on 9 May 2016. It was purely my error.

My attention to my post-political transition should not have resulted in a diminished adherence to complying with the timely notification requirements of the Registration of Members' Interests to which I had been so reliably attentive for 2 decades.

I apologise for my administrative error and oversight, and the discourtesy to the House this represents.

A further timely declaration of registrable interests during my transition to a post-parliamentary life should have included my appointment as a director and the part-time Executive Chairman of the FCA and receiving payment for this role; and for activating Agile Advisory in beginning to assist a personal friend who was founder/CEO of a small technology business for which payment had begun to be received.

The House Standing Committee of Privileges and Members' Interests, has received a referral and I have sought to answer the Committee's questions fully and with candour, in order to honour my respect for the parliament and to fulfil my undertaking to fully co-operate with the Committee's work.

It would be appreciated if you could convey my sincere apologies to the House. A copy of this letter has been provided to the Standing Committee of Privileges and Members' Interests.

The Hon Bruce Billson  
P O Box 3373, Mornington VIC 3931

30 January 2018

Ross Vasta MP  
Chair  
Standing Committee of Privileges and Members' Interests  
P O Box 6021  
Parliament House  
CANBERRA ACT 2600

Dear Mr Vasta,

Thank you for your 7 December 2017 letter.

I note your advice about the Committee's anticipated reporting timeframe to the House and intention to publish my submissions.

The advice that the Committee has noted my apology to the House (further conveyed through the Speaker) as a positive response to the error of my oversight in not lodging timely declarations during the final period of my membership of the House, is acknowledged and appreciated.

Your letter poses the question as to '*whether, in hindsight, (I) might regret having accepted an appointment of a lobbying nature before (I) ceased to be a member of the House of Representatives ..*'. The letter also asserts that the government's rules in relation to lobbying are not directly relevant to the Committee's inquiry, suggesting a more general understanding of 'lobbying activity' is the relevant consideration for the Committee.

Of course it is open to the Committee to create its own definitions, however, the *Lobbying Code of Conduct* definitions were published, respected and in the discourse surrounding this issue, used to accuse me of wrongdoing. The simple and undisputed fact is that at no time was I engaged in any lobbying as a part-time director of a not-for-profit industry association while also a parliamentarian. This is clear.

As validated by the evidence provided to the Committee, there was no suggestion of wrongdoing or impropriety at the time of my membership of the House and widely publicised part-time directorship appointment. Appropriate steps were taken (and were understood to be necessary by the Franchise Council of Australia) to guard against any risk of conflict, adverse impact on my role as a parliamentarian or detriment to my electorate or constituents.

Great care was taken in ensuring that my appointment in no way diminished my commitment to and representational work for the Dunkley community, influenced my role and judgement as a Member, presented any conflict or risk of conflict with my role as a Member of the House, risked any infringement on my duties and obligations under the *Statement of Ministerial Standards* or *Lobbying Code of Conduct*, or could be considered as concealed, hidden or not known publicly.

The 'evidence' tendered by my accusers provides no actual or factual basis for the accusations targeting me. The line of argument offered by my accusers, if followed beyond the selective extracts compiled to contrive the allegations against me, actually demonstrates a consistent, principled

approach to my advocacy and no change of course, exercise of influence or adjustment of my views or opinions arising from the appointment. This is also clear.

Going to the specifics of your letter (and at the risk of repetition in earlier evidence):

- there was no benefit or reward received for any thing or matter done or not done by me;
- there was no improper advocacy or promotion of a cause, in performing my parliamentary duties on behalf of any outside body or individual;
- there was no inducement offered or received to influence me in performing my role as a parliamentarian; and
- there was no conflict or improper conduct, actual or perceived, at the time in question or well after.

The nature, timing and tone of the personal attacks on me regarding my post-parliamentary advocacy of the views of the franchise community in relation to amendments to the *Fair Work Act* provide the frame for the referral to the Committee. It was part of a calculated campaign with the aim of personally harming me, my reputation and capacity to present views on behalf of the franchise community about these legislative amendments conceived after I'd left public office.

As detailed in my earlier submission, given the tactics deployed as part of the campaign of baseless personal attacks against me, accepting the part-time directorship appointment after I ceased to be a Member would not have avoided the belated and orchestrated furore.

The allegations are and were always a contrivance relying on a conflation of separate issues, reassembled to ignore their chronology, with adverse suppositions, inferences and insinuations displacing actual events. No credible evidence has been provided for the hurtful and harmful accusation to which I am duty-bound to respond.

The Committee adds to the personal harm of this process by repeating the baseless smears of my accusers via the use of damaging provocative and pejorative terms like 'corruption' without just cause. I again respectfully ask for a more circumspect commentary.

There is no basis for the Committee to claim it to be 'clearly foreseeable that a perception of improper influence' was likely to arise with my appointment. Far more compelling than what one might retrospectively ponder as foreseeable, is the non-existence of any alleged improper influence, observed or perceived at the actual time or claimed to be so in the months that followed. This is in large part attributable to the transparency and integrity displayed by all parties at the time.

The 'perception' at the time, informed by actual events, contemporaneous observations of my conduct and the circumstances surrounding my directorship appointment, gave rise to no suggestion or concern of 'improper influence' or any wrong-doing.

The Committee now asks that I consider a further apology for a belated and orchestrated alternative perception, not formed freely, on facts and uncontaminated, but engineered through prejudice, invention and contrivance by my accusers.

I believe my full admission of error and oversight in not lodging timely declarations near the end of my term as a parliamentarian and the resulting discourtesy to the House is where the full apology I have provided is reasoned and entirely justified. This was my wrongdoing and I have demonstrated accountability.

Any further apology would need to relate or have a contextual nexus to the lack of timely disclosure where the error and responsibility is mine.

It is my absolute hope that the Committee will apply discernment in recognising the matters and conduct for which I am responsible, from the baseless accusations, insinuations and suppositions that have already caused much harm, cost and detriment. Such discernment would unequivocally demonstrate that the Committee is driven by promoting and protecting the highest parliamentary standards, and not to be drawn in to naked political strategies and tactics.

My previous submissions canvassed suggestions as to how the Committee might recommend to parliament steps in the raising and handling of allegations of this kind in this manner in the future.

As mentioned earlier, your letter presents the Committee view of a 'more general understanding of lobbying activity' that seems to be reaching to capture some kinds of activity that has no relation to or impact on parliamentary roles and responsibilities. It seems, based on your letter, that the Committee is also attracted to replacing the concept of benefit or reward with reference to payment.

This expansive approach to the House's referral may well reflect the Committee's inability to initiate its own inquiry but is well outside what I am able to competently address as I have not been privy to the Committee's deliberations and rationale for this position.

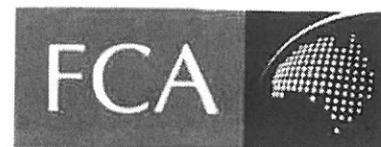
Without wishing to extend the already lengthy time needed to dispose of the allegations against me, I would imagine the Committee has turned its mind to the circumstances of parliamentarians with business interests, property holdings, legal representation roles, publishing and/or media commitments, advisory roles or associations with aligned interests or perhaps other public-good offices. These extra-parliamentary activities arguably can add to the capacity of the parliament, health of the political discourse and good governance, without conflict or detriment to their parliamentary duties. It is perhaps why others have seen utility in the definition used for the government's *Lobbying Code of Conduct*. Other commentary has argued that Members should be exclusively involved in parliamentary duties. These are worthy deliberations that have a much wider scope and relevance and could be better contemplated separately via its own referral.

I have sought to address all matters raised by the Committee respectfully and constructively in my submissions and this further response. As there is nothing more I can contribute, I simply ask that the Committee expedite the conclusion of its inquiry and provide me with the earliest possible exoneration of any wrong-doing (other than my timely declaration oversight) on the basis of the uncontested facts. 

 The Hon Bruce Billson 

23 February 2018

Claessa Surtees  
 Committee Secretary  
 Standing Committee on Privileges and Members' Interests  
 P O Box 6021  
 Parliament House  
 CANBERRA ACT 2600



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Dear Ms Surtees,

House of Representatives Standing Committee of Privileges and Members' Interests

We refer to your letter dated January 31, 2018 seeking the Franchise Council of Australia's response to the terms of reference for the inquiry into conduct by the Hon Bruce Billson.

The FCA welcomes the opportunity to comment, as there is no fair basis for any implication or assertion that the FCA has acted in any way in contempt of the House. On the contrary the FCA has at all times acted with propriety, integrity and transparency. We were fully cognisant of, and at all times respected and met, the requirements for engagement of departing parliamentarians, as the following detailed response demonstrates.

Similarly, the FCA is pleased to be able to correct assertions and implications made by Mr Tony Burke that are demonstrably false or create an entirely misleading impression of the circumstances surrounding Mr Billson's appointment. It is disappointing that Mr Burke did not take the trouble to contact the FCA prior to seeking the referral to the Committee, as we would have been quickly able to clarify matters and provide additional information that would have alleviated all possible genuine concerns. In any legal context the presentation to the Committee of such a selectively assembled set of materials as some sort of brief of evidence for investigation, without taking any genuine effort to establish any level of veracity, would be completely offensive to the principles of natural justice.

We have seen the material provided to the Committee by Mr Billson, which is comprehensive and detailed and accurately records the circumstances surrounding the appointment of Mr Billson and his conduct. In this response we have focused solely on the key issues as we see them in the context of any possible implication of wrongdoing by the FCA. If the Committee requires additional information or substantiation, please let us know.

To assist the Committee, the chronology of key events is set out below. It demonstrates the baseless nature of Mr Burke's accusations and the impossibility that Mr Billson's advocacy on behalf of the franchise community in relation to the Government's 'joint employer liability/vulnerable workers' election commitment and legislation could have commenced while he was still a member of the House of Representatives.

24 Nov 2015

Billson  
 announces  
 decision not to  
 recontest

9 March 2016

Billson  
 appointed FCA  
 director & Exec  
 Chairman

9 May 2016

Parliament  
 dissolved and  
 Billson ceases  
 to be MP

19 May 2016

Turnbull Govt  
 announces  
 'vulnerable  
 workers' policy

15 August 2017

Burke falsely  
 accuses Billson  
 of 'lobbying'  
 while still a MP

MEMBER OF



WORLD  
 FRANCHISE  
 COUNCIL

### Background to the Appointment

Mr Billson's appointment as Executive Chairman of the FCA was handled with great care, transparency and integrity by the Franchise Council of Australia, with full mindfulness and attention to his obligations to the House and responsibilities and duties to his then Dunkley electorate. In that context we draw to the attention of the Committee the following facts: -

1. The FCA engaged an external executive search firm, which then widely advertised the position of Executive Chair of the FCA.
2. Several applicants for the position were then-current or former politicians, and the final shortlist comprised two then-sitting MHRs – Mr Bruce Billson and Mr Bernie Ripoll. So, the executive search firm and the FCA were fully alive to the parliamentary requirements, and these were discussed with all candidates. Specifically we can advise: -
  - a. Mr Billson made it clear to the FCA that he had and would uphold obligations in relation to the Ministerial Code of Conduct, and his responsibilities as the Federal Member for Dunkley up until the Federal election was called.
  - b. The same parliamentary constraints were also made clear by another candidate, then sitting MP, the Hon Bernie Ripoll.
  - c. Mr Billson and Mr Ripoll also made clear that obligations arising from being a member of parliament would not be compromised during any period that may overlap the directorship.
  - d. The FCA of course fully respected and understood these priorities. In practical reality these issues were of no concern to the FCA given the purpose of the appointment articulated below.
3. A misleading impression has been created of the role of Executive Chair of the FCA which we would like to correct: -
  - a. Previously volunteers had filled the role of FCA Chair, but the demands of the role had evolved to a point that the FCA Board felt justified in creating a part-time remunerated position. The role of Chair essentially remained unchanged, with the addition of an active interface role between the Board and FCA executive, to become a part-time paid position with a slightly augmented title.
  - b. The primary role of the Executive Chair is to assist the FCA Board in its operations and effectiveness and provide an improved connection between the Board on the one hand, and the Chief Executive Officer and the FCA's executive staff on the other. Other key priorities are to support the FCA office in preparations for the Association's national convention, through the executive team shape the FCA's annual budget and raise and enhance the public profile of franchising and the FCA.
  - c. At the time of Mr Billson's appointment, the FCA was also looking to appoint a new Chief Executive Officer, and the Executive Chairman was to have an important role in assisting in the selection of the CEO.
  - d. Although not specifically relevant to this response, it was envisaged that the position of Executive Chair be a part-time role, with anticipated commitment of 8-10 hours per week, with an acknowledgment after-hours and additional time commitments from time to time. The FCA has a 10-person Board, with 5 Board members then representing a separate State Chapter Committee that each meet separately and organise their own networking and educational events. There is a staff of 8 in the FCA office, and the FCA runs around 60

events and meetings each year. The Executive Chair would be expected to attend many events.

- e. A primary role of the Chief Executive Officer of the FCA (not the Executive Chair) is to handle industry representation, including dealing with State and Federal parliamentarians and regulators. From time to time the CEO is supported by volunteer directors, including Mr Stephen Giles, who has handled the board portfolio of Industry Policy and Government Relations for the past 20 years and has drafted most of the detailed FCA policy submissions during that time. Mr Giles has also himself served as FCA Chair on several occasions and is well known in legal and political circles.
4. At the time of Mr Billson's appointment there were no industry policy issues on the FCA's agenda or radar. The FCA had completed negotiations concerning the amendments to the Franchising Code of Conduct and the amendments to the Competition and Consumer Act to prohibit unfair contract terms and was working through other industry bodies in relation to retail leasing and penalty wage rates. The FCA only gets involved in matters of direct relevance to the franchise sector, so typically remains silent and inactive in relation to issues such as economic policy, tax reform and so forth. Although obviously the FCA turned its mind to the utility of having a Chair with a political past, there was no imperative for an appointment to assist in representations to Government. In addition, the FCA already had direct links in to all relevant Ministers and other parliamentarians due to the efforts of various FCA CEOs and the FCA directors including Mr Giles.

This detail clearly establishes that there was never any motivation to appoint Mr Billson to seek to influence the House, nor any activities conducted by Mr Billson at the FCA's behest. The relatively nominal payments made to Mr Billson at the time he was still a member of Parliament were solely for the stated responsibilities for which he was appointed, and which presented no impediment to his parliamentary role or duties.

#### Action after appointment

The FCA announced and widely publicised Mr Billson's appointment and Mr Billson attending FCA events where his schedule permitted and communicating with the Board, staff and members. As envisaged, he also was an active participant in the CEO appointment process.

Conscious of the need for the FCA to maintain excellent non-partisan relationships, and of Mr Billson's political affiliations, the FCA was keen to ensure all understood his new role. The only contact Mr Billson had with Federal parliamentarians about any matter concerning the FCA while still a Member of Parliament was to issue an invitation to both the Prime Minister and Leader of the Opposition to provide a keynote address to the FCA's October National Convention, on the sitting day (May 5, 2016) before the election was called.

Well after the 2016 election and coinciding with the National Convention, the FCA organised a series of "courtesy" meetings involving Mr Billson, other FCA directors, FCA CEO Mr Damian Paull and leading sector representatives with Prime Minister Turnbull and Leader of the Opposition Mr Shorten, as well as various Ministers and other parliamentarians. These were purely meet and greet / courtesy meetings, and we were warmly received.

**Although not directly relevant to the Committee's inquiries, we do note that at no time was any query or objection raised by any of these people to Mr Billson's appointment, and indeed universally warm congratulations and best wishes were offered to Mr Billson and the FCA.**

The nature of Mr Billson's role with the FCA proceeded as planned until just before the Federal election, by which time (as Mr Billson explains in more detail in his material) Parliament had been prorogued.

Prompted by a media expose on alleged exploitation of so-called "vulnerable workers" by several 7-Eleven franchisees, and in particular extensive advocacy during the Federal election campaign by Allan Fels and others, Labor and then Liberal parties announced an intention to legislate to make franchisors and others liable for the workplace breaches of other employers in certain circumstances. This was seen as a potential existential threat to the franchise sector, and the FCA Board decided it needed to assemble significant resources to advocate on behalf of the franchise community in a highly politicised environment. This involved: -

- Two external communication firms were engaged – [Republic and Barton Deakin]
- The FCA's Legal committee was mobilised;
- Various member forums were held, and material assembled;
- Discussions took place with Mr Billson as to whether he could increase his role with the FCA, including assisting in discussions with key parliamentarians

The Committee is no doubt most interested in the nature of the discussions between the FCA Board and Mr Billson. The FCA and Mr Billson considered whether he was able to take a more active role in representing the industry, noting that such a role would be as part of an overall FCA initiative and the FCA CEO and various volunteer directors (notably Mr Giles).

It was noted: -

1. Parliament had been prorogued, and Mr Billson was not recontesting his seat;
2. The Fair Work Act and employee relations issues generally were handled by other Ministers and were not an area where Mr Billson had any Ministerial responsibility when he was Small Business Minister;
3. Mr Billson's appointment had been widely publicised, and warmly welcomed by politicians from all sides;
4. The relevant Minister had in fact reached out to the FCA and Mr Billson seeking to involve the FCA in industry consultation concerning the ambit of the legislation;
5. Mr Giles and newly appointed CEO Damian Paull had been given, in camera and as part of the consultation process, the first draft of the legislation for comment; and
6. Given the fact that Mr Paull was only newly appointed as CEO and had little franchising and small business experience it was necessary that the Chair support him during this period if Mr Billson was able to do so.

It was in our view clearly not only lawful, but appropriate and indeed encouraged, that Mr Billson involve himself alongside the other key individuals representing the FCA. So it was decided that he would have an enhanced role. He threw himself actively into the process, including meeting with various parliamentarians and assisting in the formation of submissions and presentation to the Senate inquiry. All of these activities took place after Mr Billson was no longer a Member of the House, and the vast majority actually took place well after the election, so are of no consequence to the Committee's deliberations. However, we wished to provide the full context, and also note that at all times everyone was aware that Mr

Billson was acting in his role as Executive Chair of the FCA. There was no “blurring of the lines” so to speak, it was fully transparent and up front.

#### Inaccuracies and misinformation

Given the transparency surrounding this process, and in view of the additional facts of which Mr Burke would have been well aware, the FCA was extremely disappointed with the material that Mr Burke chose to provide to the House of Representatives on August 15, 2017 in support of a request that certain matters be considered by the Committee of Privileges and Members’ Interests. The FCA considers Mr Burke’s material to have been misleading both in content and in omission. No effort was made by Mr Burke to contact the FCA to verify any information, or more properly understand the facts. The FCA considers that this conduct invites the conclusion that Mr Burke chose to provide a chronologically inaccurate, incomplete and selective set of allegations and hypotheses to create a false view for politically motivated reasons.

The FCA has reviewed Mr Billson’s full and frank submissions to the Committee and considers that there is no basis upon which to conclude that there has been a contempt of the House, or any detriment or adverse impact on Mr Billson’s upholding of his parliamentary responsibilities or the public interest. We understand that Mr Billson has apologised to the House for the lack of timely formal notification to the Registrar about his widely publicised appointment. Notification is of course the responsibility of Mr Billson, not the FCA.

The FCA completely and comprehensively rejects the accusations directed at it and considers such accusations to be baseless and reckless. The so-called ‘evidence’ offered by Mr Burke by way of his ‘word association’ is simply nonsense. The FCA is happy to provide the Committee with the reams of transcripts that demonstrate that Mr Billson has been entirely consistent in his advocacy around the terms Mr Burke cites from well before to well after his appointment as a director of the FCA. In fact, it was Mr Billson’s consistent position and recognised courage in advocating at times contested views about how best to support the small business and family enterprise community and to ensure a competitive environment that support mutual respect and the contest for customer on the basis of merit, that appealed to the FCA.

Commentary at the time of Mr Billson’s widely-publicised appointment was without exception positive, raised no matters of concern and in fact, connected Mr Billson’s consistent, respected and well-known work in seeking to ‘energise enterprise’ as well aligned with the goals of the FCA and interests of the franchise community. The appointment was also consistent with Mr Billson’s stated intention made at the time he announced (24 November 2015) that he would not recontest the following next election, that he aimed to continue working in support of the small business community.

The accusation made by Mr Burke that the March 2016 appointment of Mr Billson as a FCA director influenced or sought to influence his conduct or advocacy as a Member of parliament is completely false and categorically rejected. For Mr Burke to assert that an inquiry was warranted into whether the FCA has somehow sought to bribe Mr Billson without any evidence whatsoever is offensive and a clear abuse of process. To make such a serious implication under protection of parliamentary privilege without any effort to validate the basis for such an implication is contrary to all principles of natural justice.

The FCA would have welcomed Mr Burke seeking information about the appointment of Mr Billson to allay any reservations he may have had, and through seeking factual evidence first before making damaging and slanderous claims. For reasons only known to Mr Burke, no inquiries were made of the FCA and it is obvious that the 'evidence' he sought to rely upon was prejudiced in its selection and compilation.

The FCA submits that Mr Burke embarked on an injurious series of statements under parliamentary privilege without any concern for the facts or impact of his baseless accusations and wild suppositions, for the sole purpose of damaging the FCA and Mr Billson in our advocacy in relation to proposed legislative amendments that arose after Mr Billson was no longer a Member of Parliament.

In his 15 August 2017 remarks to the House, Mr Burke conflates the debate and the FCA's advocacy concerning the *Fair Work Amendment (Protecting Vulnerable Workers) Bill*, citing a 9 August 2017 media report about how "... Mr Billson had been extremely active in lobbying (MPs) on franchising issues ..." and Mr Billson's 9 March 2016 appointment.

Mr Burke then asserts a supposition based on ignoring the chronology and inserting an 18-month time-shift to claim that these two unrelated events "*raises a serious prospect that from that (March 9, 2016) date, and still a member of parliament, he sought to influence other members of parliament to advance the interests of the Franchise Council of Australia*".

This harmful and damaging allegation is made without any evidence, relies on a baseless contrivance and is chronologically impossible. The FCA is bewildered by how an obviously baseless, politically-motivated and serious accusation can lead to an inquiry by the Committee that results in considerable expense and harm to the accused without there being a substantive case to be answered.

The media reports that were attached to your invitation to make a submission to the Committee further demonstrate that the inquiry arises solely and exclusively as a result of a political strategy that sought to diminish the capacity and credibility of the FCA and Mr Billson to advocate on behalf of the franchise community in relation to the *Fair Work Amendment (Protecting Vulnerable Workers) Bill*.

The FCA thanks the Committee for the opportunity to set the record straight in the context of completely baseless allegations that lack any credible supporting evidence or corroboration.

The Board of the FCA considered this submission at a meeting held on 20 February 2018 and subsequently endorsed the contents.

Yours sincerely,

Brenda Hollander  
Acting Chief Executive Officer