

Education and Employment Legislation Committee

Inquiry into the Building and Construction Industry (Improving Productivity) Bill 2013 Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013

26 November 2013

Questions on Notice
(p.23 proof Hansard)

Senator CAMERON: Can you take on notice then and provide to us in writing your response to the caveats that Commissioner Cole placed on the use of these types of powers? If you go back you will see there were caveats. Can you take on notice -

Mr Mammone: We will take that on notice.

Senator CAMERON: your view as to why those caveats that Commissioner Cole said should apply are not applying? Can you also provide us with details of the checks and balances in those other legislative areas - the other bodies that use powers like this - and give us your view on why there are not the same checks and balances in the ABCC bill?

Mr Mammone: We will take that on notice.

ANSWER

Page 159 of The Final Report of the Royal Commission into the Building and Construction Industry (Volume One, February 2003) states:

Recommendation 184

The Building and Construction Industry Improvement Act provide that the Australian Building and Construction Commission be given powers equivalent to those conferred upon the Australian Competition and Consumer Commission by sections 155 and 156 of the *Trade Practices Act 1974 (C'wth)*, but with the proviso that such a provision contain a use immunity provision in the form of s6DD of the *Royal Commissions Act 1902 (C'wth)*.

There are a range of similar powers with various legislative requirements contained in a range of federal statutes. This is outlined, in part, in the submission of the Department of Employment and in ACCI's submission (at paragraphs 3.3.1 – 3.3.17). ACCI refers to the written submission (marked as Submission #5) of the Department of Employment at paragraphs 40 to 44 and the relevant Attachment.

ACCI refers to its previous written submission to the Senate Standing Committee on Education, Employment and Workplace Relations inquiry into the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2009 (July 2009) and in particular at pp.42 – 59. ACCI indicated its support for the now repealed s.52 of the *Building and Construction Industry Improvement Act 2005*. ACCI also indicated that it also supported recommendation 196 and 197 contained in the Final Report (at pp.58 – 59). These recommendations appear to be generally

encapsulated within Chapter 7 of the Bill. ACCI generally supports the provisions as they are drafted in the Bill contained in Chapter 7 for the reasons outlined in its submission at paragraph 3.3.17.