

# Report to the Senate on compliance with motion no. 274

1.1 The committee reports, that in relation to the order for the Attorney-General, Senator the Hon George Brandis QC, to produce documents<sup>1</sup> related to the committee's inquiry into the nature and scope of any agreement reached by the Commonwealth and Western Australian governments in relation to the distribution of proceeds of the liquidation of, and litigation concerning, the Bell Group of companies (the proceeds):

- (a) The questions set out in Appendix 1 to this report have not been answered; and
- (b) That in a number of instances, the Attorney-General is attempting to rely on a claim of public interest immunity on the ground that it is against the public interest to disclose confidential legal advice.

1.2 In his response to the Senate, tabled 23 March 2017, the Attorney-General stated:

Thus, whether or not the Senate has accepted that matters pertaining to confidential legal advice to government are always and in all circumstances immune from disclosure is neither here nor there. The fact is that, in general, such matters are not disclosed.<sup>2</sup>

1.3 However the committee notes that despite the Attorney-General's statement, merely stating that a document is subject to legal professional privilege or is confidential legal advice to government are not grounds accepted by the Senate as a basis for withholding details or explanations from the Senate or its committees. Rather the Senate requires that the minister shall provide to the committee a statement of the grounds for concluding that it would not be in the public interest to disclose the information, specifying the harm to the public interest that would result from disclosure of the information or documents.

1.4 The committee will give further consideration to the matter following the Attorney-General's appearance before the Senate at 9.30 am on Thursday 30 March 2017.

**Senator Louise Pratt**

**Chair**

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1 Order No 274. *Journals of the Senate*, No. 36—28 March 2017, p. 1205.

2 Senator the Hon George Brandis QC, Attorney-General, *Responses to Questions on Notice*, 23 March 2017, p. 2.