

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

29 May – 31 May 2012

Question: BET 59

Topic: Ansett Accounting Relief June 2004

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Senator WILLIAMS asked:

Senator WILLIAMS: Why did ASIC grant an accounting relief order on 30 June 2004 for Ansett Australia Limited in circumstances where there were three years of outstanding annual financial reports that had not been lodged? Was ASIC aware that those financial reports had not been lodged?

Ms Gibson: I cannot answer without seeing the files.

Senator WILLIAMS: Perhaps you could take on notice whether you knew those financial reports had not been lodged and why you issued that report. Why was the accounting relief order that was issued on 30 June 2004 kept secret from Ansett stakeholders until an ASIC media statement in 2011? Could you take that on notice?

Ms Gibson: Yes.

Answer

When considering the relief application in 2004, ASIC was aware of and considered the non-lodgment of the 2001-2003 financial reports. ASIC formed the view that the non-lodgment of accounts should not be an impediment to granting the exemption relief in 2004.

Our regulatory guidance does not state that to be eligible for exemption relief where members have no ongoing economic interest in the company, all financial report lodgements must be up to date. Rather the 'unreasonable burden' test was applied to whether relief should be granted in relation to the 2004 application.

In addition, in relation to the earlier years' accounts, we were mindful that the burden that would be imposed with respect to the prior year accounts, in the form of the erosion of potential return for creditors, would be for limited benefit.

The relief was made under a s340 instrument. This instrument is one that is not required to be made public. ASIC has never issued a media release about Ansett relief.