

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2017 - 2018

Division/Agency: Australian Charities and Not-for-profits Commission (ACNC)

Question No: 62

Topic: Greenpeace Australia Pacific: Breach of the Charities Act

Reference: Written

Senator: Abetz, Eric

Question:

The Commission's attention is drawn to some extraordinary admissions made by a Mr Barry Rafe, who (according to the ACNC website) is one of eight directors – and therefore a responsible person – of Greenpeace Australia Pacific. In an interview with Pro Bono Australia, Mr Rafe claimed that Greenpeace has a right to break the law:

“I've learnt that as humans we've got a human right to break the law, there are consequences but we've got a ... right to break the law. And if we're talking activist organisations for example, you don't go out of your way to break the law ... but sometimes there might be situations where you might need to make a point.”

Mr Rafe – in the same article – said that Greenpeace sought and seeks ‘very good legal advice’ regarding their activities and the breaking of the law: “We have staff who want to be in harm's way, and we've got to ease them back. We've got global protocols about who can go abseiling, we've got the Greenpeace SAS, we run sophisticated drones.”

Finally, Greenpeace acknowledges that maintaining tax benefits conferred to them as a registered charity or a registered environmental organisation is important.

“We don't want to create a problem where our stakeholders aren't able to get a tax deductible contribution made to us, we're going to fight for that, but we're not going to do anything that puts that at risk.”

- a) How does the ACNC reconcile an admission by a senior office bearer in a registered charity that they have a “right” to break the law?
- b) Is this public admission not a breach of the Charities Act?
 - i. If not, why not?
 - ii. If yes, what has the ACNC done to deal with this breach of the Charities Act?
- c) How can Greenpeace break the law yet still claim benefits as a registered charity?

Answer:

The matters raised have been drawn to the attention of the ACNC; we are unable to comment on specific actions due to secrecy provisions as outlined in Division 150 of the [Australian Charities and Not-for-profits Commission Act 2012 \(Cth\)](#)