

# Senate Finance and Public Administration Legislation Committee

## ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates 26 May-6 June 2014

Prime Minister and Cabinet Portfolio

**Department/Agency:** Department of the Prime Minister and Cabinet

**Outcome/Program:** 1.1 Prime Minister and Cabinet

**Topic:** PM's website – guidelines on content and Australian Electoral Act

**Senator:** Senator the Hon John Faulkner

**Question reference number:** 66

**Type of Question:** FPA, Tuesday 27 May 2014, page 67-68

**Date set by the committee for the return of answer:** 11 July 2014

**Number of pages:** 3

**Question:**

Senator FAULKNER: I asked about that, but I have also asked about the web guide. They are two separate issues. Surely, PM&C—which is the lead agency of government and the agency that, I have often said at Senate estimates, sets the example for government—would see it as a critically important issue as to whether its website—a website that it maintained, funded and ran—complied with Australia's electoral law?

Ms Kelly: Senator, you have raised the issue and I have indicated that, in order to form a view on it, we would have to seek legal advice.

Senator FAULKNER: Does that mean that the content of this website has been developed outside anyone seeking advice about these matters? For example, you have a message from the Prime Minister on the WA Senate election, a message from the Prime Minister on the Tasmanian and South Australian elections. Most people with a cursory knowledge of the political process in Australia would understand the provisions of the Commonwealth Electoral Act in relation to the authorisation of material—but not PM&C?

Ms Kelly: I expected that you would want a view based on more than a cursory knowledge of the provisions.

Senator FAULKNER: No, but it is on a PM&C website. Of course I want more than a cursory examination of the issues. I was surprised when I saw this material. I saw it was not authorised and I wondered why advice has not been sought by PM&C. You have indicated that advice has not been sought by PM&C now. That is correct, is it not?

Ms Kelly: No.

Senator FAULKNER: No-one has therefore raised whether such material may be in breach of provisions of the Commonwealth Electoral Act?

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Ms Kelly: Not that I am aware of, but as I indicated earlier, I will take that on notice.

Senator FAULKNER: The relevant section in part 1 of the act says:

Without limiting the generality of the definition of electoral matter in subsection (1)—

I can refer you to that, if you wish to know—

matter shall be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on:

(a) the election—

this material does—

(b) the Government, the Opposition, a previous Government or a previous Opposition—

this material does—

(c) the Government or Opposition, or a previous Government or Opposition, of a State or Territory—

this material does—

(d) a member or former member of the Parliament of the Commonwealth or a State or of the legislature of a Territory—

I do not think this material does—

(e) a political party, a branch or division of a political party or a candidate or group of candidates in the election—

categorically this material does—

or (f) an issue submitted to, or otherwise before, the electors in connection with the election—

this material does. I am perplexed as to what the role of the department has been. Has there been any communication at all from the Department of Prime Minister and Cabinet with the Prime Minister's office in relation to the nature of content of material on the Prime Minister's website?

Ms Kelly: As I said previously in relation to I think the same question, I will take that on notice—not that I am aware but I will take it on notice.

Senator FAULKNER: We were talking about legality before. I am now talking about the nature of the material, not the legality of the material.

Ms Kelly: I will take that on notice.

Senator FAULKNER: So you do not know whether that communication has occurred?

Ms Kelly: And for that reason I will take it on notice.

**Answer:**

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The Department had initial discussions with staff from the office of the Prime Minister regarding the use of the pm.gov.au website and content uploads in September 2013. Neither the Australian Government Information Management Office guidelines regarding websites or the *Commonwealth Electoral Act 1918* were referred to in these discussions.