

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment portfolio

Question No: 50
Hearing: Additional Estimates
Outcome: Outcome 5
Programme: Environment Assessment and Compliance Division
Topic: Regulatory capture
Hansard Page: N/A
Question Date: 07 March 2014
Question Type: Written

Senator Waters asked:

Some experts raise concerns that depending on how institutions are set up, regulators are at risk of “regulatory capture” over time, where their institutional interests and organisational culture align more with the interests of the entities they are meant to regulate, than with the public interest, as set out, in the instance of the EPBC Act, in the objects of the Act. What work has the Department in the last ten years to specifically assess the risks of regulatory capture in administering its responsibilities under the EPBC Act? Please advise each body of work undertaken, year undertaken, who undertook it, who was privy to the findings, and whether any changes were made in response.

Answer:

The Department has not conducted any reviews into regulatory capture. Instead, the Department must exercise its powers in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), which provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places—defined in the EPBC Act as matters of national environmental significance. All administrative decisions made under the EPBC Act are subject to judicial review under the *Administrative Decisions (Judicial Review) Act 1977*.