

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

31 May – 2 June 2011

Question No: BET 201

Topic: Agency Heads and Statutory Officers

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Senator Cormann asked:

**Senator CORMANN:** Why can you not have a merit based selection process just because the states and territories have to agree to the appointment as well? I would not have thought that the fact that there is state involvement in making the decision would preclude merit based selection.

**Mr Cassidy:** Let me put a hypothetical. Supposing you advertised and out of the advertising process you decided John Smith was the best person of the people who had applied. Then the Commonwealth went to the states and territories and the states and territories said they did not like John Smith. How does the advertising mean anything?

**Mr Samuel:** I think, more importantly, what happened was that the government took the view that the nature of the process involving the two stages Ms Cassidy has outlined was sufficiently rigorous and sufficiently testing of the appropriateness of the appointee, be it the commission, a member of the commission or the chairman of the commission, that it would satisfy some of the transparency issues that are otherwise contemplated with other appointments under Senator Faulkner's original proposal.

**Senator Sherry:** Interestingly, I just noticed, in looking through the list attached to the press release, that it does not list the Chair of ASIC as included; it only lists the deputy chair and the member. It does not say it is excluded either. It does not list it at all.

**Senator CORMANN:** You must have a different list from me, Minister, because right at the top of the list is the Chairperson of the Australian Competition and Consumer Commission, the Chairperson of the Australian Securities and Investments Commission, the Chairperson of the Corporations and Markets Advisory Committee, the President of the National Competition Council and so on; so I am not sure what list you are looking at.

**Mr Cassidy:** We are looking at the same press release.

**Senator Sherry:** On the one I am looking at there is no chair.

**Senator CORMANN:** I am happy to give you my document.

**Senator Sherry:** It is on the previous page—sorry.

**Mr Samuel:** We have got it.

**Senator CORMANN:** So it does include the Chairperson of the ACCC.

**Senator Sherry:** Yes, it does. I am sorry, I was looking at the second page, not the first. But, anyway, it was subsequently amended.

**Senator CORMANN:** I would be interested to see any subsequent announcement because we certainly have not been able to source any subsequent announcement.

**Senator Sherry:** That is my advice. I have not got a copy of it, but we will see what we can track down.

Answer:

The following is a link to the APS website with a list of Agency Heads/Statutory Officers who are included/excluded from the merit based selection process in relation to Appointments.

<http://www.apsc.gov.au/apsprofile/agencyheadselection.htm>

This document is dated February 2011.

The Chair of ASIC is ordinarily subject to a merit-based selection process, however in this case an eminent person was available, and as such the Prime Minister's approval of an exemption was sought and received.

- Mr Medcraft is a highly qualified candidate given his time as an ASIC Commissioner, holding responsibility for the oversight of investment banking, investment managers, super funds and financial advisers, and 30 years markets experience. As Mr Medcraft was such a highly qualified candidate it was not considered necessary to advertise the vacancy. The appointment of Mr Medcraft facilitated a seamless changeover from the leadership of Mr D'Aloisio and avoided disruption to ASIC's work in a post global financial crisis environment.

Appointments to the ACCC, including the Chairperson, are not subject to merit-based selection.

- Appointments to the ACCC are subject to the process set out in the inter-governmental *Conduct Code Agreement 1995*, and the requirements of section 7 of the *Competition and Consumer Act 2010*.
  - Relevantly, the Commonwealth must have the support of a majority of the States & Territories before a person can be appointed to the ACCC.
  - Mr Sims' appointment received unanimous support from the States & Territories.

## Treasury portfolio

Included	Excluded
<b>Heads of agencies which employ staff under the <i>Public Service Act 1999</i></b>	
<ul style="list-style-type: none"><li>• Auditing and Assurance Standards Board [Chair]</li><li>• Australian Accounting Standards Board [Chair]</li><li>• Australian Securities and Investments Commission [Chairperson]</li><li>• Corporations and Markets Advisory Committee [Convenor] (part-time)</li></ul>	<ul style="list-style-type: none"><li>• Australian Competition and Consumer Commission [Chairperson]</li><li>• National Competition Council [Council President] (part-time)</li></ul>
Office of the Inspector-General of	

Taxation [Inspector-General]

Productivity Commission [Chair]

**Statutory Offices (not agency heads)**

Chairperson, Commonwealth  
Grants Commission

- Development Allowance  
Authority Officer

**Australian Securities and  
Investments Commission**

- Deputy Chairperson
  - Member

**Australian Taxation Office**

- Second Commissioners

**Productivity Commission**

- Commissioner

**Superannuation Complaints Tribunal**

- Chairperson
- Deputy Chairperson

**Tax Practitioners Board**

- Chairperson
- Member^

**Australian Competition and Consumer  
Commission**

- Deputy Chair
  - Member

Chair, Australian Energy Regulator

- Member, Australian Energy  
Regulator

**Productivity Commission**

- Deputy Chair
- Associate Commissioner