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SENATE COMMITTEES 617 2779850

NO. 2001



AUSTRALIAN SENATE

**ENVIRONMENT, COMMUNICATIONS, INFORMATION
TECHNOLOGY AND THE ARTS**

**REFERENCES COMMITTEE
LEGISLATION COMMITTEE**

16 August 2001

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Mr Alan Smith
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Blowholes Rd, RMB 4408
PORTLAND VIC 3305

Dear Mr Smith

Casualties of Telstra (COT) Matter

I refer to your letters of 26 July to the Secretary of the ECITA Standing Committee and 6 August 2001 to me, relating to the COT Cases. As Chair of the ECITA Legislation Committee, I am very concerned with your statement in the 6 August letter that you are in the possession of two *in camera* Official Committee Hansards, relating to this issue, dated 6 and 9 July 1998. Furthermore, that you intend sending these confidential Hansards to Mr Brian Pickard, Ms Sandra Wolfe's solicitor.

I wish to remind you that evidence or documents taken in camera or submitted on a confidential or restricted basis cannot be disclosed to another person, unless by order of the Senate. This does not occur very often, although the Senate, on 30 August 2000, did authorise the release of the Hansards of 6 and 9 July 1998 to the Victoria Police Major Fraud Group to assist in their investigations.

The fact that you have received unauthorised confidential committee documents is a serious matter, but if you disclose these documents to another person, you may be held in contempt of the Senate. I would remind you that section 15 of the *Parliamentary Privileges Act 1987* provides for penalties in relation to these matters. I would also point out that section 16 of the *Privileges Act* provides that it is not lawful for the material in question to be used in any court or tribunal. A copy of the Act is enclosed. You may wish to consult your legal adviser in relation to this.

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I have to advise you that I am unable to provide you with any further assistance in relation to the matter as the committee has concluded its inquiry and has reported to the Senate.

I would respectfully suggest your remedies lie with the Telecommunications Industry Ombudsman and normal legal processes.

Yours sincerely

Alan Eggleston
Chair



AUSTRALIAN SENATE

ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS

REFERENCES COMMITTEE
LEGISLATION COMMITTEE

6 December 2004

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Mr Alan Smith
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Dear Mr Smith

I write to advise you that your letter dated 17 September 2004 addressed to me as Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, and your subsequent letters of 19 October, 26 October, 2 and 15 November 2004 addressed to me or to the Secretary of the Environment, Communications, Information Technology and the Arts References Committee, were considered by the Committee during its meeting on 2 December.

As you are aware, the Committee's involvement in the matters you have raised concluded in 1999. Accordingly it considers that the matter is closed. You need to understand that, in the absence of a reference from the Senate, it is not the role of a Senate committee to investigate such matters, as there are established and more appropriate processes in place to enable them to be pursued.

In his letter to you of 6 October 2004 the Committee Secretary outlined the possible legal consequences of any unauthorised publication of in camera evidence. The Committee confirms that advice.

As the Committee has no ongoing inquiries into this matter, I am returning the two manuscripts which you provided with your letters.

Finally, the Committee has resolved that it does not propose to enter into any further correspondence with you on this issue.

Yours sincerely

Senator Alan Eggleston
Chairman