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TRANSCRIPT 2GB RAY HADLEY 28 SEPTEMBER 2022

E&oe

Subject/s: Ministerial code, Optus breach

RAY HADLEY:

From the federal parliament we have the Shadow Minister for Government Services and Digital Economy and the Shadow Minister for Science and Arts and the Manager of Opposition Business in the House, Paul Fletcher. Paul g'day

PAUL FLETCHER:

Good to be with you Ray.

HADLEY:

Now, I got a note concerning Mark Dreyfus. Who was describing what would happen with this ICAC yesterday? But this is about a different matter. You're concerned about a breach of the PM's code of ministerial conduct because he has, apparently investments in a business that funds class action lawsuit by companies like Maurice Blackburn, Slater and Gordon. It's with a managed fund called Omni Bridgeway, the largest litigation funder in Australia, and campaigned heavily against the Morrison government's proposal for legal reform, the crackdown on litigation funders. The government says nothing to see here. You're saying as opposition this is a conflict of interest. What's the next step?

FLETCHER:

Well, we're asking the question about whether there's been compliance with the Prime Minister's Code of conduct. We've heard a lot from the Prime Minister about how tough the new code of conduct for ministers, which contains a prohibition on owning direct shares, even though three ministers already, Bill Shorten, Kristy McBain and Tim Ayres have in their own statements of registrable interests disclosed that they did hold shares at times after the code came into effect. We then had a Ged Kearney, the Assistant Minister for Health, who disclosed that she held managed funds which included significant, which in turn had made significant investments in Australian healthcare companies. We asked about this on the 8th of September and the Prime Minister said no the Minister has disposed of those interests, so that was obviously taken to achieve compliance with the code now the Attorney General, Mark Dreyfus, has disclosed he holds a number of Australian share funds. One of those is a fund

called a Greencap Broadcap and at the end of July, one of the top ten shareholdings that that fund had was a listed litigation funder, Omni Bridgeway. Now Omni Bridgeway just a few weeks ago welcomed a decision that the Attorney General had taken, on the 2nd of September the Attorney General, Mark Dreyfus, issued a press release. Which he said was releasing draft regulations to unwind the previous government unfair treatment of class action plaintiffs. And on the 5th of September Omni Bridgeway released a market announcement to the Stock Exchange welcoming that announcement. And so the question that we have asked, we've asked a number of questions in parliament of the Attorney General and of the Prime Minister as to whether this raises issues under the Prime Minister's ministerial code, which contains as well as the strict prohibition on earning shares, there are also very strict limitations on whether you can own managed funds, which in turn own shares in companies which in the words of the code "give rise to a perception of a conflict of interest". And that's the question we've been asking so far - we've just been getting a stonewalling answer. Two days in a row the Attorney General has simply said that he's complied with the ministerial code, where we think there needs to be more detail from the government and the Prime Minister as to whether there is in fact compliance with the ministerial code.

HADLEY:

So it's either a direct or indirect benefit through a series of holdings. But the most concerning part of this is if the Attorney General was part of a decision that benefits an organisation that eventually sees an increase in the money they make, which therefore sees an increase in the money he makes. Well, apart from the declaration, he's got to certainly not just disclose it, but also make sure that he gets rid of it.

FLETCHER:

Well, So what the code requires is that if a fund owns shares in a company which gives rise to a perception of a conflict of interest. Then the minister needs to inform the Prime Minister immediately and if asked by the Prime Minister to divest himself of shares. Now one of the questions we've asked is, have you informed the Prime Minister? And the answer we've got is I have complied with the code. But we haven't had the details now. The point is it's the Prime Minister, it's a Labor government which has chosen to put these requirements into the ministerial code and then if the Prime Minister says he's going to hold his ministers to strict adherence with the code, he needs to do that. Now we've asked a series of questions. There's been no response other than this stonewalling response, the Prime Minister said there was going to be strict adherence to his code and what we're seeking is an explanation of what's going on here and we are reminding the Prime Minister and the Attorney General of the specific wording of the code. If a minister becomes aware that a fund has invested in a company that might give rise to a perception of a conflict of interest, the minister should inform the Prime Minister immediately. So if the Attorney General is now aware that, even if he wasn't aware before. We asked him about this on the 8th of September. If he's aware that Omni Bridgeway is the fund he has, Greencap Broadcap, has invested in Omni Bridgeway, he needs to consider whether he under Cause 3.12 has an obligation to inform the Prime Minister.

HADLEY:

Well, as you've detailed previously, once informed, other members of government have made the decision to dispose of such matters, and it would be only fair and reasonable if the Attorney General in the same position, we're not suggesting he knowingly involved himself in this, but it's something that perhaps he should be looking at and advising the Prime Minister on it, if I could just go to another matter, because you've been far removed from

Optus for a long, long time, but you have an intimate knowledge of telecommunications given you were there as Director of Corporate and Regulatory Affairs I think for an 8 year period, but a long time ago, it would be the long time ago.

FLETCHER:

That's right.

HADLEY:

Utility companies had tougher restrictions placed on them by the federal government. Your federal government to protect critical infrastructure, telecommunications companies lobbied against having these same restrictions placed on them. In light of what's happened with Optus, do you think that under a new government, not your government, a new government we need to revisit? Telecommunications companies and make sure that we don't have a replica or somewhere else of what's the fiasco with Optus at the moment?

00:06:24 Speaker 2

Well, look, let's just get the facts clear here, Ray. Our government passed what's called the Security of Critical Infrastructure Legislation that went through in 2021 and 2022. That applies to 11 sectors, including the telcos. And there's a series of obligations that apply, and there's a power, for example, in the Secretary of the Home Affairs Department to so-called step in to company in extreme circumstances. Now, there are two specific requirements in relation to a register of incidents. One of them are where there were already obligations on the telcos under what's called the TSSR Legislation, which had gone through a few years before, which was a telco specific set of arrangements. And on the basis that the telcos already had those existing obligations, then the obligations that separately existed in that security of critical infrastructure legislation were not applied to the telcos now. That's across all the telcos. But I make the point the Minister for Home Affairs can override that at any time, so...

HADLEY:

Will it be prudent for her to do that now in light of the fact that these new or what were new critical infrastructure laws, well, the telcos blew up saying, look, we've already got commercial stressors and that regulation and legislation didn't apply to them. But would it be appropriate that the Home Affairs Minister now intervene and apply that to them? Because I, I mean, apart from the fact that Optus don't seem to think they've done anything wrong something must have gone wrong. I mean, you don't have to be a Rhodes Scholar or former executive at Optus to understand something gone dreadfully wrong and they've got to accept responsibility for that because, you know, 2.8 million to 9.8 million people have been compromised and with a whole range of stuff. The other thing is, and I keep getting this and because of your expertise, I'm not trying to put you on the spot. Maybe you can help me with this about - I just got an e-mail then as I'm talking to you about it and it's about someone who dealt with Optus 10 years ago. "I got a SIM card in my name for the daughter 10 years ago, but left them nine years ago" now gets an e-mail from Optus this morning saying I you've been compromised. How long, do you know in reasonable time that these organisations, not just telcos, keep our information? We're going back a decade now.

FLETCHER:

There are some specific obligations on the telcos, and I believe other industries to retain data for a period of time. Look, there's a whole series of questions that need to be asked coming out of this. As I say, the Morrison Government made some very significant changes to legislation, particularly security of critical infrastructure legislation. Which covers 11 critical

sectors, telcos, banks, ports and airports and others. And so there's a lot of powers there for the Home Affairs Minister. We took that action because we thought it was important to be to have the mechanisms in place because we know cyber security is a significant and growing risk now obviously people who are customers of Optus are naturally concerned about what it means for them. Certainly what the company needs to do is to be keeping them informed and there's obviously a lot of work going on there. I also commend the work of state governments which have moved rapidly to facilitate things like being able to update change your licence is if you have concerns. One of the other things to do is obviously to speak to your bank, or particularly turn your mind to if you've got a password- if you've got an online banking account, as most of us do, make sure you change that. Ask your bank if they don't already do it, whether they can give you 2 factor authentication, which means that when you log in to your bank account, you need to use a code which is sent to you on your mobile phone. So that's an additional layer of protection. So these are all steps that affected customers can take, but absolutely there are lessons that need to be learned from this, there's an ongoing requirement on all corporates, everybody who's storing data to be very alive to these risks and we need to learn from them, but also it's important that the Minister for Home Affairs is taking a careful look at all of the extensive powers that she has under the legislation that Morrison government passed and consider whether she needs to use any of those powers.

HADLEY:

Yeah, and I understand that there is a legal requirement to keep information stored, but you know, if you got a SIM card in 2012 and you still listed there, you know, I don't see, you know, if there was some sort of investigation, one would assume that would have happened by now, I don't know that they should be storing stuff like that from a decade ago. There's a legal requirement for tax purposes and a range of other things. And you know, other government agencies, the AFP and ASIC may require you to store stuff for a certain time, but it does seem that they store it forever. And that shouldn't be the case surely?

FLETCHER:

Well, again, these I think there are a range of questions coming out of this as have come out of other significant cyber security challenges. Of course, the Parliament House had its own significant cyber security challenge a year or two ago with a significant hacking incident, and there have been a range of changes to the systems that support parliamentarians as a consequence of that, there will definitely need to be a lot of work done to learn from this experience and to take all the steps that can be taken so it doesn't happen again.

HADLEY:

OK, thanks for your time as always.

FLETCHER:

Thanks Ray.

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