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THE PARLIAMENTARY STANDING COMMITTEE OF PUBLIC ACCOUNTS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON MONDAY 16 OCTOBER 2000.

AMBULANCE PRIVATE

Mr ANDREW REEVES, GOVERNMENT PRICES OVERSIGHT COMMISSION WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIRMAN (Mr Fletcher) - Welcome, Mr Reeves. The question before our committee, Mr Reeves, is one of a complaint from a Mr David Watson, operating a private ambulance services. He feels aggrieved at what he claims is unfair competition coming from the Tasmanian Ambulance Service area. He has asked us to investigate; we have considered the matter and been made aware that GPOC is also considering the matter. So we thought, rather than be in conflict or trying to reinvent work that had already been done, we would invite you to meet with us to explain, if you would, where you are at with regard this particular issue. We note that you have forwarded correspondence to us; all members of the committee have read that correspondence. So perhaps we could ask you to summarise that, with the general view in mind of helping the committee to determine whether there is a case for it to investigate or whether there is a jurisdiction in which it might play a role, either in support of you or in parallel to what you are doing or alone.

Mr REEVES - Thank you for the invitation to speak to the committee. I am also concerned about the undesirability of multiple bodies dealing with a similar issue, so I am pleased that I can at least outline what we can look at and what we cannot look at in regard to Mr Watson's complaint. The correspondence I forwarded to the committee did set out some of the background to the competition policy and in particular the competitive neutrality issues and the role of GPOC, or the commission, is dealing with those competitive neutrality issues. The competitive neutrality is only one aspect of course of the whole competition principles agreement and the commission's role is really limited to dealing with complaints in regard to that competitive neutrality.

The key issue through the competitive neutrality aspects is that where government agencies are providing services in competition with the private sector there should be, for a significant government business, full cost attribution so that the business is itself aware of its costs and, also, to remove any net comparative advantage by virtue of its public ownership. That is, the full cost should recognise notional taxes and charges as if the business was privately owned. So the intent is to remove any advantages of government ownership.

That said, the outcome is really one of identification of full costs - that is, of direct costs, indirect costs and overheads. There is very limited guidance given in regard to pricing and, really, Mr Watson's complaint, amongst other things, deals with the matter of the

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prices charged by Tasmanian Ambulance Services for the stable patient transport - which is the activity for which he has the consent from the Director of Ambulance Services to undertake. I think the important thing is that in aspects where it is a significant government business the commission can examine whether full cost attribution has been applied, that the commission really doesn't have any jurisdiction in regard to the prices. So the steps in the process for us is to determine, first of all, whether this is a significant business activity, and the pointers there are essentially the significance of the activity in the market rather than whether it is significant to the agency. The second step then, if it is a significant business activity, has there been a full cost attribution undertaken. And in this case we are aware, from correspondence from the department, that there has not been full cost attribution but that is their intent. So we understand that that will happen. The third aspect, as I said, is one of pricing and that is something that is really not within our jurisdiction.

The meetings we have had with Mr Watson, and also in his complaint, has raised quite a few areas of concern that he has with the activities of the Department of Health and Human Services. We have seen those as falling into three categories: one is really in regard to the competitive neutrality issues, which we can deal with, albeit in a limited way. A second issue that he raised was the constraints applied through the consent that was given to him by the Director of Ambulance Services. I note that that consent is generally referred to as a licence and I understand it is in fact an agreement between himself and the director. In regard to whether the requirements are appropriate or reasonable, that is not something that is within the jurisdiction of the commission to consider and we have advised Mr Watson of that. The third issue he raised was to do with the separation of the licensing function - that is, the terms of the consent - from the commercial activities of the organisation. Again, that is an area that, strictly speaking, is not within the commission's jurisdiction. We believe there may be a role for the commission to look at whether the process has been undertaken - that is, a process to determine whether it is necessary or desirable to separate those licensing activities from the commercial activities, but we do not have a role to look at the merits of the decision or even in regard to the process. It is really a question of whether it has actually be done.

So, Mr Chairman, in summary, the commission has very limited jurisdiction in this matter. Mr Watson has raised quite a number of points in his complaint. We are capable of dealing only with a very small set and I suspect that the outcome, in that we can't look at prices - which is really the substance of his complaint - is really not going to give much relief or comfort to Mr Watson. He is aware of this and was aware of it when he first lodged the complaint but chose to proceed with the complaint.

The outcome for the commission - we are required by the regulations to provide, first of all, a determination of whether there has been a breach; if so, recommendations on two counts: one is in how the agency itself is apply the competitive neutrality principles - that is, whether it is in accordance with the Government's application statement. The second point we may make recommendations on is whether the application statement itself should be adjusted to give better effect to the competitive neutrality aspects of the competition principles agreement. I expect that, having now received the complaint and the time I sent my letter to the committee, we did not have a reply from the department. We now have that; we are considering that and I expect that we would complete our investigations and make a recommendation in about three weeks.

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Mr WILKINSON - With the competitive neutrality principles, I understand from a letter which you kindly forwarded to us, you talked about your significant business activities - an SBA. How are they defined? I suppose you could have an SBA as far as the private operator is concerned and obviously that is his significant business, the transport of non-urgent patients, but it may not be an SBA for the Government. So which side do we look at?

Mr REEVES - Our view is whether a business activity is significant or not should be looked at in terms of its impact on the market - that is, is it significant in the market - rather than whether it is a significant part of the activities of the department. There are guidelines in the application statement for agencies to look to to decide whether the activity is a significant business activity. That is a key point which has been addressed by the department in its response to us.

Mr WILKINSON - So the department in its answer is identifying that and then it is up to you to make a decision on their answer as to whether it is an SBA?

Mr REEVES - That's right.

Mr KEN BACON - Andrew, I was just a bit unclear. There are two services here - one is the emergency services and the other is the stable patient transport. I think you are telling us that you can't look into the emergency services because of the contractual agreement that was drawn up or are you looking at the principle -

Mr REEVES - No, the first thing is really to define the business activity and our view is that the business activity is essentially the stable patient transport. So while the Tasmanian Ambulance Service is sort of a subset within the total agency - that includes all ambulance services, emergency and non-emergency - and then we are looking again at a smaller field, just being the stable patient transport.

Mr KEN BACON - So any investigation you carried out would be limited to that area?

Mr REEVES - Yes.

Mr KEN BACON - You said you couldn't deal with costings. Surely any investigation, given the correspondence we have off Mr Watson saying that he can provide the service cheaper, would have to come back to costings or it wouldn't be worth carrying out the investigation?

Mr REEVES - That is right. We are not really required to look at the costings themselves; we are to look at whether the costings have been properly done. That might not get down to the fine detail of what the Tasmanian Ambulance Service may charge for the service. The prices themselves are, strictly speaking, not within our jurisdiction. The main intent is to identify the proper costs of providing the services by the government agency and then the price that is charged should certainly look to costs to decide on the reasonableness of the price, but that is really an agency and a government decision. In this case, I understand that for patient transport between public hospitals - which was a key part of the work undertaken by Ambulance Private - from 1 July the price was

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effectively set at zero through a change to the regulations. So that is a policy decision and it is something that is not within the jurisdiction of the commission.

The other thing I might add is that the commission has no jurisdiction either in regard to whether agencies should be tendering out services. So that is also outside the commission's view.

CHAIRMAN - Could I clarify a couple of points? The investigation you will carry out, Andrew, will be an investigation of the Tasmanian Ambulance Service operation and your limited role is to determine whether there has been full cost attribution in determining the costs of operation of the Tasmanian Ambulance Service?

Mr REEVES - That is correct. The only area we will be looking at will be what we have termed the 'stable patient transport'.

CHAIRMAN - So you won't be investigating Mr Watson's business to see whether his ... not outside your jurisdiction altogether?

Mr REEVES - That's right.

CHAIRMAN - Am I correct in assuming that the price component will be cost plus margin?

Mr REEVES - Normally that is what you would expect to see in a price. I guess one of the outcomes of the full cost attribution is really to identify any cross-subsidies as well within the activities. On a number of occasions we have confronted this issue where a sensible price might actually be below full cost in that, if the work is done at the margin, then it may be reasonable that that work doesn't pick up full overheads, for example. (Inaudible) in the construction industry, for example, where for various reasons a firm will choose to operate just to cover its costs on that job. In a commercial world often prices that are bid will be enough to cover the costs for that job plus a very small margin but not enough to cover overheads.

Mrs JAMES - More or less to hold their work force in until they pick up the next job.

Mr REEVES - That's right. Our feeling is - and we have expressed this in recommendations to the minister from previous investigations - that some guidance should be given to agencies about their pricing, but it probably should not be prescriptive - that is, there will always be occasions when the full-cost rules won't really be appropriate.

Mr KEN BACON - I guess if you do a comparison between the two operations the fixed and variable costs will be astronomically different because of the overheads and the set-up, so I am going to have to take that into account. I mean, the prices would be substantially different, I would imagine, so I'm going to have to look back through a formula of some kind and pick up the fixed variable -

Mr REEVES - That's right.

CHAIRMAN - I just wanted to summarise, in my words, so Andrew might tell me whether I am understanding correctly. Your advice to the committee at this stage is that, in relation

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to assessing costs of the Tasmanian Ambulance Service and the stable patient operation, providing you make a judgment or you reach a decision that is a significant business activity, you have a capacity to inquire into and make a judgment as to whether there has been full cost attribution in relation to that particular service, and that is the limit of your activity?

Mr REEVES - That is correct. It's really a review of whether the process has been undertaken, rather than looking at the outcomes.

CHAIRMAN - Can we move on to the next two matters raised by Mr Watson. One is the matter of the application of certain limitations on his licence agreement. You did say at an earlier time that the agency by policy decision could elect to charge nothing at all for stable patient transport in public hospitals and, indeed, have done so, and that is then without your jurisdiction as it is a policy matter. Couldn't the Government make a policy decision to apply extra conditions to the licence that is to be issued to the private sector operator, with similar justification?

Mr REEVES - Yes, that is correct. I guess the principle for the competitive neutrality principles are that the regulatory functions should be separate to the commercial activities, so that any conditions on the licence were there for reasons of safety and public benefit rather than to impose restraints on the activities of the private sector competitor that weren't being imposed on the government agency itself. So there should be some arms-length dealing between the regulatory decision maker and the commercial operator - that is, the provider of the services. That certainly applies where we are dealing with reasonably significant activities and a factor that should be taken into account through another process under the competition principles agreement, which is the legislative review - that is, I think, clause 5 of the agreement and one also that falls outside our jurisdiction.

CHAIRMAN - Are there questions in relation to that particular issue, Mrs James?

Mrs JAMES - Only just a comment that Mr Watson would be looking to make a profit or he wouldn't want to be in the business.

Mr REEVES - Yes, quite.

CHAIRMAN - So an important factor here, Andrew, is whether or not the government business operation is a significant business activity. You're saying that even within the competitive neutrality principles if it is a significant business activity then there is a need to separate the regulatory and the operational functions and costs and apply them differently, but if it is determined that it is not a significant business activity that is not important?

Mr REEVES - That would be correct, yes. Again, the separation is captured in, I think, clause 4 of the competition principles agreement and various guidelines have been given to agencies in regard to that separation. I understand there has been some separation within the department by delegation of the licensing functions from the Director of Ambulance Services to, I think, the head of agency.

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CHAIRMAN - So on this particular case Mulligan carried out the investigation and made the recommendation.

Mr REEVES - And Grant Lennox is in charge of the operations.

Mr CHEEK - I may just be going back slightly, but with the attribution of costs that you are talking about, Andrew, it seems to me that you can make sure they are being attributed correctly but at the end of the day if they want to charge nothing, like they are, to remove patients from one hospital to another they are entitled to do that, so basically then it is just shown that it is passed back to the taxpayer, in effect, to fund that operation against private enterprise. So all you can do is highlight that fact.

Mr REEVES - Yes, that's right. The outcome of the full cost attribution would be that the agency knows its own costs to provide that service, so it is then better equipped.

Mr CHEEK - But if they want to set ridiculous prices, like not charging at all, to run somebody out of business - if that was the case - all you can do is say, 'Well, the taxpayers are subsidising that against a private operator'.

Mr REEVES - Yes, the shortfall should be apparent anyway.

CHAIRMAN - But there is another point here, isn't there? The suggestion is not that the Tasmanian Ambulance Service would provide this free service, if you like, for all hospitals; they would only provide it for the public hospital system and they would still charge the private hospital system. So where there is potentially a cross-subsidisation going on the money is coming from the same source - the global allocation of Health and Human Services - and if they don't collect a fee for the service, the only party they collect it from is the hospital, which is a public hospital anyway. So there may well be some justification - not a good justification, in my opinion - for making that policy decision in relation to public hospitals as opposed to private hospitals.

Mr REEVES - Yes, that is quite true. I guess from the ambulance service perspective there are two decisions. One, would the same services be able to provide it at lesser expense by the private sector? The second thing is: even if that were the case, would there be other reasons why they would prefer to provide the service themselves? It may be better integrated with their own emergency operations, which is a view that has been put to us by the department in its response.

CHAIRMAN - Andrew, would you agree that of the three matters raised by Mr Watson and classified by you, in area 1, competitive neutrality and cost attribution, your commissioner is going to inquire into and make a determination and recommendation in relation to that issue, but that 2 and 3 are outside your jurisdiction and therefore if this committee were to take any role at all in investigation it should confine itself to those two areas?

Mr REEVES - Yes, I would agree with you. I guess the thing I would add there would be that, while we may take a view on the process of costings, we won't be investigating pricing. So there is another area there which the commission won't be addressing and I guess which may be explored in another quarter.

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CHAIRMAN - Would you care to make a judgment with regard to prima facie evidence as the need for the such an inquiry in the area of pricing and the split of the regulatory and operational situations?

Mr REEVES - I think the whole situation is fairly unfortunate in that Mr Watson seems to have been caught in a change of policy. This is always a risk that is taken when in competition with the public sector. As to the need for a further investigation, it is really not for me to comment. I understand that the matter of fees for ambulance services has received a fair bit of consideration by parliament in the past and even fairly recently. The regulation that brought about the change of charges, so that it became in effect a free service for patient transport at public hospitals, would also have been tabled and subject to parliamentary scrutiny.

CHAIRMAN - Thank you, Andrew, for the time you have given us today and the expert knowledge you have provided us with. We look forward to sharing that expert knowledge at other times in the future and it is advantage to us and hopefully, if ever we can be an advantage to you in supporting any work you are doing, we would look forward to that opportunity as well.

Mr REEVES - Thank you. We've had some lengthy discussions with Mr Watson and I will be looking forward to the views of the committee.

THE WITNESS WITHDREW.