



Australian Government

Department of the Prime Minister and Cabinet

SECRETARY

Ref: [REDACTED]

The Hon Tony Burke MP
Shadow Minister for Finance
Manager of Opposition Business
Member for Watson
Parliament House
CANBERRA ACT 2600

Dear Mr Burke

I refer to your letter of 28 May 2016 concerning the opinion piece by the Chairman of NBN Co (nbn), Dr Switkowski, published in the Sydney Morning Herald.

You asked that I undertake inquiries in relation to the matter and that I seek a written undertaking from nbn 'that there will be no further breach of the Caretaker Conventions or the Government Business Enterprise Governance and Oversight Guidelines'.

At the outset I emphasise that the decision to refer matters to the police is entirely a matter for the management of nbn. It is also a matter for nbn management to judge when they need to make public comments in the interests of the company – such comments are not automatically at odds with the conventions or the supporting practices to the conventions. As you also know, once matters are referred to the AFP, operational decisions are entirely at their discretion. To provide further context, I also understand that nbn's referral to the AFP took place in December 2015.

That said, in my judgment some of the comments in the opinion piece are not consistent with established practices around the Caretaker Conventions, which are directed at protecting the apolitical nature of government bodies and preventing controversies about the role of those bodies distracting attention from the substantive issues in the election campaign. I have conveyed this view directly to Dr Switkowski.

Turning to your letter, I understand from my inquiries that nbn provided an advance draft of the article to the Department of Communications and the Arts. There was no communication with the Department of Finance.

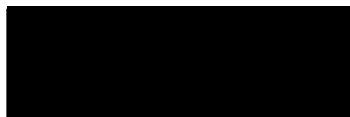
The Department of Communications and the Arts sought, and received, advice from the Department of the Prime Minister and Cabinet that the publication of the article in that form was not consistent with the established practices associated with the Caretaker Conventions. I understand that view was strongly conveyed to nbn by the Department of Communications and the Arts, as was the view that the conventions apply to the Chairman, as well as to the CEO and the company. Our understanding is that this view was passed to Dr Switkowski.

However, the conventions and associated practice set out in the guidance published by the Department of the Prime Minister and Cabinet do not have legal force. This Department does not have the power to enforce the observance of the conventions or practices. We provide information and advice to departments and agencies, but responsibility for observing the conventions ultimately rests with the heads of the relevant bodies.

I can however assure you that the maintenance of the apolitical and impartial nature of the public service is a matter of the highest priority for me as head of the public service.

I have copied this letter to Dr Switkowski, the Secretary of the Department of Finance and to the Secretary of the Department of Communications and the Arts.

Yours sincerely

A solid black rectangular box redacting the signature of Martin Parkinson.

Martin Parkinson PSM

10 June 2016