

24 September 2015

The Hon Robyn McSweeney
Chair – Standing Committee on Legislation
Legislative Council
Parliament House
PERTH WA 6000

Attention: Ms Filomena Piffaretti, Committee Clerk

Dear Ms McSweeney

**Inquiry into the Bell Group Companies (Finalisation of Matters and Distribution of Proceeds)
Bill 2015**

Thank you for your letter dated 23 September 2015.

As you know, I am the Official Liquidator of The Bell Group Ltd. (in liquidation) and the other “WA Bell Companies” (as that term is defined in the Bill) being wound up. I acknowledge the Committee's invitation to provide written submissions on the Bill by 2 October 2015 and to attend a hearing before the Committee on 6 or 7 October 2015.

I believe that I am not in a position to either make a submission or attend a hearing before the Committee for the following reasons:

1. The primary stakeholders of a company in liquidation are its creditors. The collective views of its creditors therefore essentially represent the company's best interests. There are exceptions to this general proposition but in the present circumstances I do not consider them to be relevant. However, the present circumstances of TBGL and the other WA Bell Companies being wound up are such that there is no consensus as to whether the Bill is in the interests of each company. In fact, there is a clear divergence of views among the principal creditors. For example, ICWA is a principal creditor of TBGL and is clearly in favour of the Bill. BGNV, also a principal creditor of TBGL, strongly opposes the Bill. ICWA and BGNV are also principal creditors of BGF, therefore the same divergence of views exists in that company. By reason of the debt and equity relationships between TBGL and BGF, and the other WA Bell Companies being wound up, the divergence of views effectively pervades all the relevant companies.
2. I anticipate that one or more creditors will allege that I am in a position of conflict in making any submission to the Committee. By reason of undertakings I have given to the Supreme Court of Western Australia, I am obliged to first seek directions from the Court if there is such an allegation. This effectively means that I could not make any submissions to the Committee about the Bill, whether in writing or orally, without first making an application for directions and obtaining those directions. Given the deadlines referred to in your letter, that is not feasible.

3. There is also a question as to whether, as liquidator, I can recover the costs of making submissions to and appearing before the Committee as costs properly incurred under ss 556(1)(a) or (dd) of the Corporations Law/Act. This is irrespective of, but certainly heightened by, the conflict position mentioned above. In previous instances where liquidators have contemplated assisting bodies such as Royal Commissions, it has been necessary for those liquidators to first seek directions from the Court to ensure that they can properly incur the costs in their estate to do so. For similar reasons, I would need to make a similar application in this instance and there is simply not sufficient time for me to do so.

Yours sincerely
The Bell Group Ltd. (in liquidation)



A L J Woodings
Official Liquidator