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The Hon Robyn McSweeney MLC
Chair of the Standing Committee on Legislation
Parliament House
Perth
Western Australia
6000
Australia

FAO: Ms F Piffaretti, Mr A Hickman

Our ref: NRG/088799.00001

5 November 2015

Dear Madam

Supplementary Submissions to the Standing Committee on Legislation (the Committee) in respect of the inquiry into the Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015 (the Bill)

As you know, we are instructed by Ms Jackie Stephenson, the liquidator of Bell Group (UK) Holdings Ltd (in liquidation) (**BGUK**). We refer to the Supplementary Submission and Further Supplementary Submission of the Treasurer of Western Australia and the Attorney General to the Committee, dated 23 October 2015, which have only today come to our attention.

Paragraph 10 of the Supplementary Submission is misleading when it states, "*no one has a determined or vested right to any particular property or amount of money of the Bell Group companies*". In fact, BGUK has a determined, vested right in its share of the Bell litigation funds currently held by the liquidator of the WA Bell Companies.

Paragraph 2.4 of the Further Supplementary Submission responds to the Committee's "Question 4", concerning BGUK's rights under the Settlement Deed. The response provided by the Treasurer does not, in fact, answer the questions posed by the Committee because it offers no resolution to the clear conflict that arises between clauses 22 and 25 of the Bill on the one hand, and clause 27 on the other, as currently drafted. In simple terms, the Authority cannot both (a) have absolute discretion as to distribution of the funds held by it, including the funds held on trust for BGUK under the Settlement Deed, and (b) be bound to observe the terms of the Settlement Deed (and therefore not have absolute discretion).

BGUK contends that the issues raised in paragraphs 13 to 16 and 18 of its submissions dated 30 September 2015 have not been addressed in a satisfactory way, or at all, and that it is necessary for the effective operation of the Bill that these issues are resolved before enactment.

We note that the position of the Treasurer is that "*BGUK...is not adversely affected by the operation of clauses 22 and 25 of the Bill*". With respect, that intention is not adequately reflected in the current draft of the Bill. The Bill should either (a) exclude BGUK's share of the Bell litigation funds from the provisions of clauses 22 and 25 of the Bill or (b) make clear in express terms in clause 27 of the Bill that the Authority's

obligation to give effect to the terms of the Settlement Deed takes precedence over the Authority's other obligations, rights and discretions under the Bill.

Yours faithfully



Neil Griffiths
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