

Advice under pressure: the OzCar controversy (A)

Extraordinary footage from a Senate Economics Legislation Committee special enquiry dominated Australia's evening news on Friday, 19 June 2009. Two Treasury officials appeared before the enquiry into the *Car Dealership Financing Guarantee Appropriation Bill*, generally known as OzCar. It seemed to viewers that the more senior official was desperately trying to prevent the other from answering questions being asked by an opposition senator. The senator was probing for evidence that the Prime Minister had misled Parliament about his efforts to get preferential treatment from a taxpayer-funded scheme for a Queensland friend, neighbour and supporter. That morning a front page article by senior journalist Steve Lewis in the *Sydney Daily Telegraph* had declared that "Queensland businessman John Grant was offered financial support by Ford at the very time the car giant was desperately trying to secure a \$550 million Government 'loan'". It went on to say:

"The Daily Telegraph has learned of a correspondence trail involving the office of the Prime Minister and Government officials responsible for a \$2 billion scheme to help cash-strapped car dealers.... The fresh allegations of high-level interference will send shockwaves through the Rudd Government and will feature prominently at a Senate hearing in Canberra today."¹

Among those giving sworn evidence to the inquiry were representatives of the finance company Ford Credit, the Motor Trade Association of Australia, and David Martine and Godwin Grech from The Treasury. Martine was the General Manager, Financial Systems Division, and Grech was the Principal Adviser in the Division.

Grech, who started his 20-year public service career in Treasury, had returned to the department in July 2008 after five years with the Department of Prime Minister and Cabinet.

This case was written by Janet Tyson, Australia and New Zealand School of Government, for Dr Anne Tiernan, Griffith University, as a basis for class discussion rather than to illustrate either effective or ineffective handling of a managerial situation. It has been prepared from published materials.

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¹ Lewis, S. 'Car Deal: PM in spin', *Daily Telegraph*, 19-06-09. Unless otherwise indicated all media references have been retrieved from the Australia and New Zealand Reference Centre.

He arrived just as the Treasury was facing its biggest ever challenge. With a reputation for hard work and attention to detail, Grech was integral to the hectic months in late 2008 and early 2009 as Treasury mounted the Australian government's bold response to the Global Financial Crisis, which arose when the Rudd Labor Government, elected in November 2007, had been in office for less than a year. The election marked a turning point for the Australian Public Service as a whole, and Treasury in particular. Kevin Rudd had campaigned on restoring integrity to government and reinstating trust in and the independence of the public service; there would be no wholesale sackings of senior public servants after the election. The new government set out to build and rebuild relationships. Treasury, increasingly sidelined and out of favour in the latter years of the Howard Government, regained its central importance as government moved to protect the Australian economy against the ravages of the Global Financial Crisis of late 2008.

Fighting the financial crisis

The Rudd government was quick to take comprehensive action, adopting a suite of economic stimulus packages. Although Australian banks had relatively little exposure to the bad debts that would bankrupt some of their US counterparts, there was still concern that the crisis could halt the country's 17-year long economic expansion, costing thousands of jobs. Ahead of the major meltdowns and US bank failures of September 2008, the Reserve Bank of Australia was beginning a dramatic reduction in interest rates, designed to boost consumer spending and business investment. Following the sharemarket's eight percent plunge on 10 October, Prime Minister Kevin Rudd called a crisis meeting of government leaders. There the Treasurer Wayne Swan outlined a "timely, temporary and targeted" fiscal stimulus that reflected Treasury Secretary Ken Henry's advice to "go early, go hard and go households"² to help Australia avoid recession.

The first wave of initiatives included an immediate government guarantee of all bank deposits worth under \$1 million (announced on 12 October); and the \$10.4 billion *Economic Security Strategy* (14 October) which delivered \$8.7 billion in one-off cash handouts to pensioners and families in time for Christmas. In November, local governments received \$300 million for infrastructure, to be spent by June 2009; and a \$15.2 billion funding package went to state governments to invest in hospitals, housing and education. In December, a further \$4.7 billion was announced for railways, roads and higher education, while \$8 billion was allocated to support small banks and other lenders. Stimulus activity continued in early 2009, with the \$42 billion Nation Building and Jobs Plan announced on 3 February. The "Nation-Building" Budget in May, delivered a further \$22 billion in infrastructure spending.

At the Treasury it was a time of intense activity. For the first time the department was closely involved with the implementation as well as the development of policies. Everyone in the Markets Group, as well as other officials across Treasury, were "working very long hours, arduously, hard and diligently to stay on top of the range of very complex and numerous issues that the global financial crisis has created."³ Godwin Grech was one of those singled out for praise for the work he had done.⁴

² Irvine, J, 'Go early. Go hard. Go households': the Economic Stimulus Package in Australia', *Ecodate*, Vol 24, March 2010, Issue 1. Copyright Warrigal publications.

³ Senator Nick Sherry, Deputy Treasurer, to the Senate Standing Committee on Economics, Additional Estimates Hearing, 25 February 2009, Hansard, E72).

⁴ Treasury Secretary Ken Henry at the 25 February hearing, Hansard E48

The Special Purpose Vehicle

OzCar, announced on 5 December, was a \$2 billion “special purpose vehicle” (SPV) designed to keep credit flowing and activity buoyant in the new and used car sector. The Rudd government had targeted the automotive industry for job growth shortly after its election a year earlier. It had secured agreement that Toyota’s new hybrid cars would be built in Australia, and on 10 November 2008 had increased funding for its “new car plan for a greener future” to \$6.2 billion.⁵

Such optimism was in complete contrast to the “autogeddon” being experienced in the US, with two of the giants of automobile manufacturing, General Motors and Chrysler, headed for bankruptcy. The related freeze on credit threatened to wipe out Australia’s car sales sector. The majority of car dealers got floor plan financing – which covered the costs of displaying vehicles before they were sold – from GMAC, GE Money or Ford Credit, all subsidiaries of under-pressure US parent companies. By October, both GMAC and GE Money indicated they would have to exit the market by year’s end.

The Motor Trade Association of Australia estimated that 500 of its 1400 dealerships could go out of business, with significant job losses. A working party of banks and Treasury officials, led by former Commonwealth Bank chief executive David Murray, who had been recruited to assist Treasury with the stimulus projects, proposed the SPV as a self-funding trust to support car dealers unable to refinance. At David Murray’s suggestion, Credit Suisse, represented by its investment banking division chairman John O’Sullivan, was approached to manage delivery of the SPV and, having declared no conflict of interest, was duly appointed.

By mid-December, Ford Credit indicated it was interested in taking part in the financing scheme. Over the next three months the company negotiated an agreement to take part in the SPV to the value of \$550 million, for the benefit of Ford dealers.

“Mr OzCar” the senior public servant

Treasury official Godwin Grech, with some administrative assistance, had sole responsibility for the implementation of the OzCar scheme. As a Principal Advisor in the Financial Services Division of Treasury’s Markets Group, Grech was a level 1 member of the Senior Executive Service. He held the highest security clearance, entrusting him with access to Secret material. He had spent five years in the Department of Prime Minister and Cabinet, where former Prime Minister John Howard was among those to praise his reliability and work ethic. After the change of government Grech was offered a new position in strategic policy after his existing industry policy one was disestablished.⁶ However, he chose to return to Treasury.

Colleagues recognised Grech’s powerful intellect, and a commitment to work despite ongoing serious health problems that had hospitalised him on several occasions. If his style seemed somewhat eccentric, he was not alone among Treasury staff, and he also had more mainstream interests. Like the then deputy prime minister Julia Gillard, he was a fervent fan of the Western Bulldogs Australian Football Club, based in his home town of Melbourne.

When the government announced OzCar, the scheme was to be established in early January 2009, and fully capitalised by the end of that month. This had still not happened by the end of February for a number of reasons. Godwin Grech had spent three weeks in hospital for attention to a serious long-standing health condition. He was back at work by 16 February,

⁵ Taylor, L and Uren, D, *Shitstorm*, Melbourne University Press, 2010, p113

⁶Davis M, and Schubert, M, ‘A diligent servant who never stopped working’, *The Age*, 24-6-09

and a week later appeared before the Senate Standing Committee on Economics, where opposition senator Eric Abetz questioned him extensively about OzCar. Grech told the committee there was less urgency to activate OzCar because the majority of affected dealers had been able to renegotiate financing without any assistance from Treasury. Smaller, Australian-based lenders like Esanda and St George had increased their loan book. GMAC and GE Money remained in the market, influenced by some improvements in the global situation, and convinced by Treasury officials such as Grech to exit the market in a more orderly manner.⁷

These developments, and Ford's entry into the scheme – which had necessitated some changes to the original parameters for the SPV – meant that only 40 or 50 dealers still needed assistance with refinancing by February of 2009, the majority of them selling Holdens or other marques such as Kia.

During February, March and April, a number of dealers enquiring about OzCar financing were referred to Godwin Grech, from a variety of sources.. The scheme was discussed on a number of occasions and in April the Prime Minister's Economics Adviser Dr Andrew Charlton asked for extra information about progress, having been given glowing reports by the Motor Trade Association of Australia. Enabling legislation for OzCar was introduced to Parliament in late May, by which time only about 30 dealers needed financial support.

The origins of “Ute-gate”

One of those was Ipswich dealer John Grant, who sold Kia cars, and was currently with GE Money. His approaches about access to OzCar, first made through Labor MP Bernie Ripoll on 19 February, became the centrepiece of the 19 June Senate enquiry. Grant had given Kevin Rudd an 11-year old Mazda utility for use in his electorate; the gift had been recorded on Rudd's register of pecuniary interest. But had it, as the *Daily Telegraph* suggested, prompted Rudd to intervene inappropriately on Grant's behalf?⁸

The issue had been raised at some length during the Senate Economics Legislation Committee's Budget Estimates hearing on 4 June. The shadow spokesman for industry, Eric Abetz, was chastised by the chair for making “silly” suggestions that if proven should lead to the Prime Minister's resignation.⁹ On the same day, Leader of the Opposition Malcolm Turnbull used Question Time in the House of Representatives to challenge both the Prime Minister and the Treasurer, Wayne Swan, about preferential treatment for John Grant. Both denied doing anything out of the ordinary,¹⁰ and the issue was not pursued by media preoccupied with news of the Rudd government's first ministerial sacking, that same day.¹¹ Further questions had been asked of, and further denials given, by Rudd and Swan in the House on 15 June. On 19 June, after the *Daily Telegraph* article, the Treasurer called a press conference to again deny any attempt at improper influence.

By then officials in both the Treasury and the Department of Prime Minister and Cabinet, and the parliamentary offices of the Prime Minister and Treasurer, had been searching fruitlessly for the “documentary evidence” referred to. The search began in earnest after Malcolm

⁷ Grech to the Senate Standing Committee on Economics, Estimates, 25 February 2009, Hansard E71.

⁸ Lewis, S. ‘Car Deal: PM in spin’, *Daily Telegraph*, 19 June 2009.

⁹ Official Committee Hansard, Senate Economics Legislation Committee, Estimates (Budget Estimates) Thursday, 4 June 2009, E60

¹⁰ Questions without Notice, Hansard, House of Representatives (Chamber), Thursday 4 June 2009, page 5767, 5770, 5772, 5774, 5781

¹¹ Defence Minister Joel Fitzgibbon was sacked for inappropriate expenditure on 4 June 2009.

Turnbull confronted Andrew Charlton, during the Press Gallery's midwinter ball on 17 June. As a startled Charlton later noted for the file, Turnbull said: "You should not lie to protect your boss", strongly suggesting that he had email evidence to prove his direct involvement.¹²

Former Rhodes Scholar Andrew Charlton was one of the Prime Minister's inner circle of young advisers. Charlton, the author of a book critical of the economic policies of the Howard government, had, in the course of his job, met and exchanged emails with Godwin Grech in Treasury. However, he could not remember writing one that might be construed as asking for special assistance for John Grant. Thorough searches did not turn up any evidence that one had been written. Grech himself, executing a FOI request from Senator Eric Abetz for documentation relating to John Grant, had not included such an email in the material he compiled. Yet, as Grech told his Treasury colleagues on 18 June, journalist Steve Lewis was pursuing him to get information about the relationship between the Prime Minister and John Grant. Questioned by staff from the Treasurer's office, Grech said he was sure he had seen an email asking for special treatment but, as it could not be found, offered to "lie or say it never existed", a course of action he was advised against. Knowing Grech would be the principal witness at the 19 June enquiry, his Treasury manager David Martine also discussed what he would say and how he would conduct himself at the hearing, again emphasising his obligation to speak the truth.

At 5.45 am on 19 June, Godwin Grech emailed Treasury Secretary Ken Henry and a number of senior colleagues to advise them that, despite his continued refusal to talk, the *Daily Telegraph* had published the allegations that preferential treatment could be proved.

"I apologise if all this has allowed Lewis to add more substance to his article, frankly I am very annoyed at having ended up a piece of political meat in what is a grossly overblown issue. At estimates today I plan on playing with a straight bat and saying it as I understand the true facts to be."¹³

Mr Grech gives sworn evidence

Every seat in the public gallery was full, parliamentary staff crowded around internal telecast monitors and TV crews jostled for prime position as the Senate Economics Legislation Committee's investigation of the *Car Dealership Financing Guarantee Appropriation Bill 2009* began at 1 pm on 19 June. Senator Eric Abetz had requested the hearing, although the opposition had supported the Bill's progress through the House, because of his concern over possible serious irregularities. He took a dominant role in the enquiry. Questioning Ford Credit's Greg Cohen the senator quickly established that there had been meetings referring to the plight of dealers, including John Grant "while the issue of Ford's involvement in OzCar was still being discussed". He highlighted that Grant was the only dealer whose phone number was given to Ford.¹⁴ From Michael Delaney of the Motor Trade Association of Australia, opposition Senator Barnaby Joyce discovered that it was previously "unheard of" for a senior government official to intervene and try and set up a dealer for finance.¹⁵

¹² AAP Australian National News Wire, 'Turnbull threatened PM staffer over OzCar affair'. 19-6-09.

¹³ Committee of Privileges: Matters arising from the hearing of the Economics Legislation committee on 19 June 2009: Volume 3, p3

¹⁴ A representative of Ford subsequently spoke with Grant, but in line with company policy, did not make an offer of finance because Grant was not a Ford dealer. When Godwin Grech again asked Ford about financing for Grant on 16 March, the answer was the same.

¹⁵ Senate Hansard, Friday 19 June, E14

David Martine opened proceedings for Treasury by stating that, despite news reports, no email between the Prime Minister's office and Treasury about John Grant Motors could be found. He tabled a number of relevant emails that had been retrieved.

Godwin Grech explained the policy reasons for supporting Ford Credit's participation in the SPV once it indicated it wanted to remain in Australia, saying that the decision to accept it was made on 25 March though only announced on 13 May, the day before the Guarantee Bill was introduced to the house. Abetz then examined the details of some of the emails exchanged about John Grant, asking Grech whether there had been "an imperative put to you by anybody in the Treasurer's office that this was an important case to look after?"¹⁶ Grech replied:

"Senator, actually I have been in the public service now for 20 years, and I take my work very seriously. When a Minister's office – I previously also worked in Prime Minister and Cabinet – so when the PMO or the Treasurer's office approach you with something, you give it priority... I certainly had the impression that he [John Grant] was not your average constituent."¹⁷

At this point David Martine explained that neither John Grant nor any other dealer had so far been financed through the SPV, which could not be activated until finally passed through Parliament. There was little to distinguish the request on Grant's behalf from that of other cases referred to Grech by Treasury, including one from an opposition member of Parliament.

Further questioned by Abetz, Grech said that he did not get any impression that these other dealers were not average constituents. Nor had he copied any correspondence about them to Treasury Secretary Ken Henry.¹⁸ The Grant case, he said was "labour-intensive" because of the amount of detail Grant wanted. "My recollection is that the Treasurer's office alluded to Mr Grant at least being some type of an associate of the Prime Minister's."¹⁹

There followed protracted and heated debate before Senator Abetz asked if Grech was familiar with an email "along these lines... The Prime Minister has asked if the car dealer financing vehicle is available to assist a Queensland dealership, John Grant Motors, who seems to have trouble getting finance. If you could follow up on this as soon as possible, that would be very useful'." This is what has been suggested to me by somebody, and there is of course the suggestion in today's media that such a document exists."²⁰ After further exchanges with David Martine and the chair, Godwin Grech was eventually allowed to reply, which he insisted on doing at length, at first saying:

"I am a public servant and I am basically in a situation which no public servant should find him or her self in. I have worked very hard over a long time to build up trust within the department and within my relationships... I know that when I go to a meeting and I sit down with three or four or five strangers and try to have a professional discussion, I work on the assumption that what I put on the table is not going to end up on the front pages of the tabloids next day.

¹⁶ Senate Hansard, Friday 19 June, E23

¹⁷ Senate Hansard, 19 June, E24

¹⁸ Until advised by the Treasurer's office that it was not necessary, Grech had been sending updates of discussions on behalf of John Grant to Wayne Swan at his home fax as well as to Ken Henry and other colleagues.

¹⁹ Senate Hansard, 19 June, E32

²⁰ Senate Hansard, 19 June, E35

“It was very hard this morning going into work, and looking my colleagues in the eye when I know that their instinctive response would have been to point the finger at someone like me, given that frankly there are not that many people working on this stuff within government. In terms of your specific question, believe me, I appreciate the sensitivity of it and its import...

“But it was my understanding that the initial contact I had with respect to John Grant was from the Prime Minister’s office.”²¹

Acknowledging that no trace of any email had been found, he said: “My recollection may well be totally false or faulty, but my recollection – and it is a big qualification – but my recollection is that there was a short email from the PMO to me which very simply alerted me to the case of John Grant, but I do not have the email.”²²

There were 100 more exchanges on this topic, but Godwin Grech was prevented from answering any further questions – with Senator Abetz describing David Martine as “Mr Grech’s ventriloquist’s doll”. Grech was eventually permitted to respond to government Senator Doug Cameron’s questions about the *Daily Telegraph* article. He had spoken with Lewis four times on 18 June, all but one initiated by the journalist, Grech said, but would not go into whether “any veiled threats were made to you in terms of if you did not answer questions that it would have some problems for you and your career?” He had not spoken with Lewis earlier: “I do not know the guy.”²³

The session concluded with the following exchange:

“**Senator CAMERON** – You were asked more than once by Steven Lewis to confirm that correspondence and communication had taken place between the PMO, the Treasury, on the issue of Mr Grant. You denied that, and he persisted, and you again denied that that had taken place. Is that correct?

“**Mr Grech** – Yes.”

The inquiry closed at 4.08 pm, and David Martine and Godwin Grech walked back to Treasury, followed (in defiance of parliamentary rules) by members of the media, including some television cameras. The two men did not discuss the afternoon’s proceedings, and once back at Treasury, a visibly exhausted and distressed Grech was offered support and assistance, before electing to return home.

Calls to resign

Immediately after the hearing, opposition leader Malcolm Turnbull called a press conference, accusing both the Prime Minister and Treasurer of corrupt behaviour: “a shocking abuse of power and betrayal of public trust”²⁴ and misleading the House. He demanded that they should resign.

Prime Minister Kevin Rudd was recuperating from day surgery on his back as these charges were being made, but was in his office by evening to call his own press conference at 7.30 pm. In a display of total confidence in his advisor²⁵ he rapidly moved from defence to attack. He repeated that neither he nor his office had made any requests for special favours for John

²¹ Senate Hansard, 19 June, E37

²² Senate Hansard, 19 June, E38

²³ Senate Hansard 19 June, E43-44

²⁴ AAP National News Wire, ‘Turnbull demands PM’s head over ‘lies’ to parliament’, 19-6-09)

²⁵As observed by Rudd biographer, Professor Pat Weller, who noted that Andrew Charlton was invited to join the Prime Minister for dinner at his official residence, The Lodge, that evening.

Grant and flatly rejected the allegations as based on false or fraudulent evidence. He said that investigations by the IT units of both Treasury and the Prime Minister and Cabinet showed that his adviser Andrew Charlton had never sent any such email on or around 19 February. He had asked the Auditor-General to investigate the issue, and referred questioners to the Opposition, suggesting that the Liberal Party might be behind a story deliberately designed to mislead.²⁶

But the opposition backed Godwin Grech. On *ABC Lateline* that night, the opposition's Tony Abbott said

“a public servant of this gentleman's seniority would not lightly say something. Public servants do not lightly say things that could end the careers of ministers or prime ministers.”²⁷

The next day, Saturday 20 June, the *Daily Telegraph* the next day published what purported to be the email from Andrew Charlton to Godwin Grech:

“Hi Godwin, the PM has asked if the car dealer financing vehicle is available to assist a Queensland dealership, John Grant Motors, who seems to be having trouble getting finance. If you can follow up on this asap that would be very useful, Happy to discuss. A.”²⁸

Later that day, the Attorney-General's Department asked the Australian Federal Police to investigate. Shortly after Treasury Secretary Ken Henry learned of the investigation, he asked that it should cover emails stored in Treasury's system. Throughout the weekend, Treasury officials continued to search through Grech's emails, while he recuperated at home.

²⁶ AAP National News Wire, 'Rudd accused of giving mate a leg-up', 19-6-09

²⁷ ABC Premium News, 'Government slams 'false' OzCar email', 20-06-09

²⁸ Lewis, S., 'Rudd's car crisis – Revealed: Email that could topple a Government', Daily Telegraph, 20-06-2009.