

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION ANNUAL REPORT 2017

5QON: Court cases: timeline of investigations to decisions

Hansard p. 12

CHAIR: Just for the record, can I ask you to clarify which court case or decision you were referring to in referencing a two-year wait.

...

Mr KEOGH: Could I maybe augment the Chair's request and ask that you **provide us on notice in writing the timetable** for those—I think you are referring now to two cases—from investigation through to commencement of action to when the hearing concluded and the judgement was finally delivered and, if there was an appeal, the time line on that just so that we as a committee can get a good sense of the timing issues you are confronting and the citations.

Mr Bezzi: **We can certainly do that.** The case that I was specifically referring to involved Pfizer. It was a misuse-of-market-power case in which there was an appeal...

Answer:

The time line for *ACCC v Pfizer Australia Pty Ltd* [2015] FCA 113 (first instance) [2018] FCAFC 78 (appeal) was:

9 March 2012	ACCC in-depth investigation commenced
13 February 2014	Proceedings commenced by ACCC
9-31 October 2014	14 day hearing before Flick J in relation to liability
25 February 2015	Judgment of Flick J on liability (dismissing the ACCC's application)
18 March 2015	Notice of Appeal filed by ACCC
8 April 2015	Notice of Contention filed by the respondents
23-27 November 2015	Five day appeal hearing before Full Court (Greenwood, Middleton and Foster JJ)
25 May 2018	Judgment delivered by the Full Court (dismissing the ACCC's application)
22 June 2018	Application for special leave to appeal to the High Court filed by the ACCC

Another case is *ACCC v Cascade Coal Pty Ltd & Ors* NSD584/2015. The time line for this case was:

18 November 2013	ACCC in-depth investigation commenced
23 May 2014 – 20 November 2014	Federal Court proceedings and Full Court appeal re challenge to validity of Section 155 Notices issued by ACCC (dismissing Moses and Paul Obeid's challenge to the Notices)

22 May 2015	Proceedings commenced by ACCC
4 – 28 April 2016	12 day hearing on liability before Foster J
6 July 2018	Judgment delivered by Foster J (dismissing the ACCC's application, reasons for decision subject to suppression orders)