

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

2014 - 2015

**Department/Agency:** ACCC  
**Question:** AET 127-130  
**Topic:** - Competition Policy Review  
**Reference:** written - 6 March 2015  
**Senator:** Leyonhjelm, David

**Question:**

127. What resources were devoted to the Commission's submissions to the Competition Policy Review?
128. What proportion of these resources were devoted to advocacy for policy and legislative change, rather than outlining the Commission's implementation of current policy and legislation?
129. Should an agency tasked with implementing and enforcing legislation advocate change to that legislation? Is there a distinction between the Commission and police forces, such that advocacy for legislative change is appropriate for the former, but not the latter? If so, what is that distinction?
130. What public benefit was achieved by pursuing the chicken industry over the labelling of free range eggs and free to roam broilers?

**Answers:**

127. The equivalent of one year's work for approximately 7 FTE was devoted to the ACCC's preparation of submissions to the Competition Policy Review.
128. Approximately 98 per cent of the 7 FTE were focused on advocacy for policy and legislative change which had a significant basis in the ACCC's experience of implementing and enforcing the law.
129. As the ACCC outlined in its submissions to the Review Panel's draft report, advocacy is regarded (both in Australia and internationally) as complementary to the functions of a competition agency. The agency's day-to-day experience in enforcing the competition law provides the agency with the knowledge to:
  - advise policy reviews on the operation of legislation
  - assist other government bodies in considering the impact on competition of government decisions, and
  - interact with constituencies across society to raise awareness of rights and obligations under the *Competition and Consumer Act 2010* (CCA), and the benefits that competition policy can bring.

It is common for governments to request the ACCC provide advice to inform a policy process. The advice is based on the insights that the ACCC gains from administering Australia's competition law.

Section 28 of the CCA provides the ACCC with functions and obligations in relation to the dissemination of information, law reform and research.

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The ACCC acknowledges in its response to the draft report that the proposed Australian Council for Competition Policy could also play a significant advocacy role and that the ACCC need not be the only body with such a role.

The ACCC does not consider it appropriate for it to make specific comment on whether or not police forces should or should not advocate for legislative change.

130. Pursuant to the 2014 Compliance and Enforcement Policy, one of the ACCC's priority areas was credence claims, particularly those with the potential to adversely impact the competitive process and small businesses.

Credence claims are those made about premium attributes a product or its production might have and are not easy for consumers to test the accuracy. Consumers are entitled to make decisions about false and misleading market practices.

False or misleading representations about the existence of credence attributes have the potential to induce consumers into buying a product that they might not otherwise and paying more for attributes that do not exist and may also cause significant detriment to the market by disadvantaging other businesses.

The public benefit achieved by pursuing misleading free range and free to roam claims in the chicken industry is addressing the above matter in relation to the businesses in question but also important deterring all businesses from engaging in this practice.