

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2015 - 2016

Department/Agency: ACCC

Question: AET 2636-2641

Topic: Procedure manuals (Departmental)

Reference: written - 19 February 2016

Senator: Ludwig, Joe

Question:

2636. Does the department have a procedure manual for communication between the department and the minister? If yes, please provide a copy and:

2637. When was the manual last updated?

2638. Who is responsible for updating the manual?

2639. Has the minister's office had any input into the content of the manual? If so, please detail.

2640. Who is the manual distributed to?

2641. Is anyone responsible for clearing communications before they are sent to the minister or the minister's office?

Answer:

2636. Yes.

2637. See attachment below *ACCC Protocol for engaging with Parliamentary offices*.

2638. ACCC Executive Office.

2639. No.

2640. ACCC Executive Office staff.

2641. Yes.

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Attachment - ACCC Protocol for engaging with Parliamentary offices



ACCC Protocol for engaging with Parliamentary offices

The Australian Competition and Consumer Commission (ACCC) is an independent Commonwealth statutory authority that administers the *Competition and Consumer Act 2010* (CCA) as well as performing various roles under a range of additional legislation. The ACCC promotes competition, fair trading and regulates national infrastructure for the benefit of all Australians.

The ACCC sits within the Treasury Portfolio. While the ACCC is an independent authority, the ACCC has important relationships with Treasury, which is the key competition, consumer protection and small business policy agency, and with the ACCC's responsible Minister. The ACCC is also required to liaise with other Portfolio and non-Portfolio Ministers on particular issues.

In accordance with the ACCC's commitments detailed in its 2014 Statement of Intent, the ACCC is committed to working collaboratively with Treasury and to ensuring that the ACCC's responsible Minister is kept informed about major ACCC decisions and activities. The ACCC is also committed to providing Treasury and the responsible Minister with timely information that contributes to the continuous improvement of the regulatory framework.

This Protocol sets out the steps the ACCC undertakes to ensure that Portfolio Ministers' offices and Treasury are informed of key ACCC issues in a timely and accurate manner. Given the Australian Energy Regulator (AER) has a separate Statement of Intent and separate processes for engaging with Government, this protocol only covers the AER to the extent that the AER is part of the ACCC for *Public Governance, Performance and Accountability Act 2013* and governance purposes.

Executive Minutes

Executive Minutes are the ACCC's method of formally seeking a decision from a Minister and are primarily sent to the ACCC's responsible Minister. Executive Minutes are also used to notify a Minister and their office about important ACCC activities and decisions. Executive Minutes are cleared at Chairman and/ or Chief Operating Officer level.

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The ACCC has a formal structure for Executive Minutes and the consistent use of this structure is monitored by the Executive Office. The Executive Office numbers each Minute and has well-established processes for tracking their progress.

Executive Minutes are copied to the appropriate area at the department/ agency sitting under the Minister to which the Minute is directed. The Executive Office and Minister's office are often in regular contact about the progression of Executive Minutes.

Significant ACCC announcements and decisions

The ACCC notifies the office of the Minister for Small Business and Assistant Treasurer about key announcements and decisions, particularly those with the potential to have a significant impact on market participants. For example, the ACCC will notify the Minister about:

- the institution of proceedings (at least 24 hours prior to public release)
- significant judgments (as soon as practicable following judgment)
- significant merger or authorisation decisions (at least 24 hours prior to public release)
- significant regulatory decisions (prior to public release accounting for market sensitivities)
- major ACCC corporate issues (as appropriate)
- any other issues as appropriate.

The Executive Office is responsible for ensuring that the responsible Minister's office is informed on key announcements and decisions in a timely and accurate manner. Where possible, the Executive Office will also provide the Minister's office with an advance copy of the media release that accompanies a significant matter.

Where a matter does not warrant a formal Executive Minute, the Executive Office will inform the Minister's office via an email brief. These briefs are followed up with further contact where required. Email briefs are cleared by the Director Executive Office and are primarily based on information from Executive Briefs that are cleared by General Managers and/ or Executive General Managers. When providing briefing content via email, this information is copied to the relevant areas at Treasury to ensure they are aware of the matter and the information that is being provided to the Minister's office.

Educational materials and longer term projects

The ACCC will also notify its responsible Minister about the public release of educational materials and announcements associated with longer term projects, for example ACCC activities in relation to Fraud Week.

In these instances, the ACCC will notify the Minister's office approximately 1 week prior to public release, for the purpose of ensuring the Minister's office has sufficient time to consider the information and take any necessary steps. As above, the appropriate area of Treasury is copied in to any correspondence with the Minister's office about these matters.

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Speeches, reports and submissions

Major speeches by the Chairman, Commissioners and Senior Executives are provided to the office of the ACCC's responsible Minister. Significant ACCC reports and submissions to government and parliamentary inquiries are also provided to the Minister's office.

The Executive Office will, where possible, provide a copy of any speeches, submissions and reports to the Minister's office at least 24 hours prior to public release. These documents are also provided to the relevant officers at Treasury, and other departments as appropriate.

Correspondence to Cabinet Ministers

From time to time the ACCC is required to provide correspondence to Portfolio Ministers other than the ACCC's responsible Minister. In such circumstances, the ACCC ensures that a copy of this correspondence is provided to the office of the ACCC's responsible Minister to ensure they are kept informed on the issue.

Meetings with non-Portfolio Ministers

ACCC representatives are occasionally required to meet with non-Portfolio Ministers. For example, the Chairman may meet with the Minister for Communications to discuss issues concerning the NBN. In these circumstances, the ACCC will provide its responsible Minister's office with notice that the meeting is occurring and will provide details about the issues discussed in the meeting where appropriate.

Other engagement with Ministers outside the Treasury Portfolio

The ACCC is often required to undertake major work or report on subject matters that are relevant to Ministers outside the Treasury Portfolio. For example, the ACCC produces a range of reports on communications issues that are provided to the Minister for Communications.

In these circumstances, the ACCC engages directly with the relevant Minister's office, providing them with the report and relevant information. The ACCC will also ensure that copies of this information and hard and soft copies of published reports are provided to the ACCC's responsible Minister.

Regular liaison with Treasury and the Minister for Small Business & Assistant Treasurer

Through the above activities, the Executive Office seeks to ensure that the office of the Minister for Small Business and Assistant Treasurer and Treasury are informed about significant ACCC activities in a timely and accurate manner.

To supplement these processes, the ACCC also undertakes regular engagement with Treasury and the office of the Minister for Small Business and Assistant Treasurer to ensure a regular flow of information between both parties.

The Executive Office participates in a weekly teleconference with Treasury staff to discuss important upcoming issues. This provides a forum to ensure that Treasury is alerted to key

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ACCC work and also enables the ACCC to be informed about policy issues. The ACCC Chairman and Commissioners also meet with Treasury staff on a quarterly basis.

The Chairman and Director Executive Office also regularly meet and engage with the Minister for Small Business and Assistant Treasurer and their Chief of Staff.