

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

29 May – 31 May 2012

Question: BET 351

Topic: Dairy Industry

Hansard Page: Written

Senator RHIANNON asked:

In rejecting the recommendations of the Senate Economics References Commission, in its report on the dairy industry, to reform competition law, the Government said "the competition provisions of the Act should not be reviewed until the ACCC has had the opportunity to further test the law in the courts". Asked about this at Additional Estimates, the ACCC referred to "five cases of unconscionable conduct before the court and another 19 misuse of market power matters under detailed investigation, some of those would be coming to court".

351. Can you update us on the progress of these cases? Are the courts adopting a narrow interpretation of what constitutes unconscionable conduct?

Answer:

351. As at 6 July 2012 the ACCC has six matters before the Federal Court alleging unconscionable conduct under the various provisions of the *Trade Practices Act 1974* and the Australian Consumer Law. This includes the five matters referred to at Additional Estimates. One of the matters is awaiting judgment with some of the remaining matters scheduled for hearing in the second half of 2012.

The resolution of these matters is expected to assist with the interpretation of the unconscionable conduct provisions of the Australian Consumer Law. The ACCC continues to investigate matters involving unconscionable conduct allegations.

The ACCC continues to have a number of investigations on foot in relation to misuse of market power allegations and is currently awaiting judgment in relation to a matter heard in 2011.