

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Supplementary Budget Estimates

2015 - 2016

**Department/Agency: ACCC**

**Question: SBT 655-658**

**Topic: Legal Costs**

**Reference: written - 30 October 2015**

**Senator: Wong, Penny**

**Question:**

Legal Costs

Since 1 January 2015:

655. List all legal costs incurred by the department or agency
656. List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external
657. List cost spend briefing Counsel, broken down by hours spent briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
658. How was each piece of advice procured? Detail the method of identifying legal advice

**Answer:**

655. From 1 January 2015 to 31 July 2015, the Australian Competition and Consumer Commission (ACCC) incurred \$14 384 610 (GST exclusive) in external legal costs. The ACCC also has an in-house legal practice which provides legal advice and services, as well as other services such as freedom of information coordination and legal technology. From 1 January 2015 to 31 July 2015, the ACCC's internal legal services expenditure cost \$ 5 642 784 (GST exclusive). This figure is inclusive of on-costs and ancillary non-legal services. It would be an unreasonable diversion of resources to provide figures to 30 October 2015.
656. Legal advice is often intertwined with broader legal services, including the preparation for and conduct of litigation, and the ACCC does not distinguish the costs of legal advice from other costs of legal services, therefore the following response relates to legal services costs. Of the ACCC's external legal costs from 1 January 2015 to 31 July 2015, \$9 882 145 (GST exclusive) comprised legal professional fees; \$1 037 553 comprised disbursements (excluding counsel) and \$3 464 912 comprised counsel fees. External legal services were provided by junior and senior counsel, as well as solicitors of varying levels of seniority from law firms. Internal legal services were provided by the ACCC's in-house legal group. It would be an unreasonable diversion of resources to provide an hourly breakdown of legal services or to provide figures to 30 October 2015.
657. From 1 January 2015 to 31 July 2015, counsel fees were \$3 464 912 (GST exclusive), of which \$2 878 464 were fees for counsel briefed via a law firm instructed by the ACCC and \$586 448 were fees for counsel directly briefed by the ACCC. Of the counsel briefed, 44 were female and 66 were male. It would be an

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unreasonable diversion of resources to provide figures to 30 October 2015 or to identify the level of counsel used.

658. The ACCC procures its external legal services in three main ways:

- a) through a parcelling arrangement with six law firms for competition, merger, adjudication and regulatory law work,
- b) through another parcelling arrangement with six law firms for consumer law work, and
- c) through the direct briefing of counsel.

The two parcelling arrangements are based on the Legal Services Multi-Use List (LSMUL) established by the Attorney-General's Department for Commonwealth legal services. Expenditure on external legal services, including detailed estimates, must receive prior approval by the ACCC's Executive General Manager, Legal & Economic Division before any legal services can be undertaken. The ACCC has requirements on internal and external legal providers to ensure that all substantive legal advice is captured in a central internal database maintained by the ACCC.