

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates 25-26 February 2009

**Question: aet 16**

**Topic: ACCC vs Leahy Petroleum Pty Ltd**

**Hansard Page: Written**

**Senator ABETZ asked:**

1. In the Geelong petrol case (ACCC vs Leahy Petroleum Pty Ltd) Justice Gray of the Federal Court dismissed the ACCC's Statement of Claim and awarded costs against the ACCC. In his judgment Justice Gray critically examined the evidence led by the ACCC and found it contradictory and wanting in terms of proving price fixing in the Geelong market. The ACCC did not appeal the decision. In the aftermath of this failure you have openly campaigned for changing the law so that convictions will be easier to get. Why should lower standards of proof be the outcome of a failure of the ACCC to make its case? Should the system be changed to improve the strike rate of the ACCC?

**Answer:**

The ACCC conducted an inquiry into the price of unleaded petrol in 2007 and subsequently reported to the Minister for Competition Policy and Consumer Affairs, Hon Chris Bowen MP on 14 December 2007 with a report titled *Petrol Prices and Australian Consumers: Report of the ACCC inquiry into the price of unleaded petrol*.

Part 14.2.1 Pages 228 – 230 of that report contains commentary of recent developments in the law relating to Section 45 of the *Trade Practices Act 1974* and recommends consideration of amendments to the legislation. Appendix R is legal advice obtained by the ACCC in the issue.

The section of the report concludes with the words

*“While the precise form of words would be a matter for the drafter and the parliament, such an amendment would have the effect of largely restoring the law regarding the meaning of the term “understanding” to that which existed in 1974.”*