

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

1 June – 3 June 2010

Question: BET 241

Topic: Detection of Cartels

Hansard Page: Written

Senator BUSHBY and EGGLESTON asked:

1. Can the ACCC indicate what level of success it is having in detecting cartels?
2. Is the ACCC aware of the UK Office of Fair Trading offering financial rewards for information leading to the detection of cartels? Does the ACCC have a view on the possible payment of rewards for that type of information?
3. Is the ACCC aware of the recent failure of the UK criminal prosecution in the BA-Virgin Atlantic cartel case? Would it be fair to say that the failure has raised concerns about the use of leniency policies? Will the ACCC now review its leniency policy in the face of that failed UK case?

** Senator Eggleston also submitted this question in writing to the committee on 8 June 2010.*

Answer:

1. The ACCC believes it maintains a successful record in the detection and investigation of cartel matters with a number of matters proceeding to litigation. At the time of the Senate Estimates appearance, the ACCC had 13 cartel proceedings before the court (a number relating to the air cargo allegations) with another 13 being investigated.
2. The ACCC is aware of the UK Office of Fair Trading policy in relation to financial rewards for information leading to the detection of cartels. The ACCC continues to monitor that policy but has not at this stage formally considered such a policy in Australia.
3. The ACCC is aware of the recent developments in the UK criminal prosecution in the BA-Virgin Atlantic cartel case. The ACCC does not consider the developments to be a reflection on cartel leniency policies per se, but rather an important reminder to be conscious of disclosure obligations in all aspects of cartel prosecutions. The ACCC is turning its mind to the lessons learnt in relation to the UK prosecution with a view to reinforcing investigation practices relevant to information management.