

Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE
Innovation, Industry, Science and Research Portfolio
Budget Estimates Hearing 2011-12
30 May 2011

AGENCY/DEPARTMENT: IP AUSTRALIA

TOPIC: Amgen Patent

REFERENCE: Question on Notice (Hansard, 30 May 2011, E24)

QUESTION No.: BI-10

Senator HEFFERNAN: Did IP Australia seek input from other Australian government departments, including the Department of Health and Ageing, prior to granting the patent term extension to Amgen over that particular patent?

Mr Noonan: The decision under the Patents Act is for the commissioner to make, so the commissioner's delegate must make that decision. One of the factors, of course, is the delay in the regulatory approval, which is a matter that the Therapeutic Goods Administration is involved in. So, to that extent, there would be some consideration of what the TGA had done.

Senator HEFFERNAN: I will be a bit more specific: which departments did you consult before you granted the extension?

Mr Noonan: I will have to take that question on notice as to the particular case, but we would point out that the Patents Act gives the decision to the commissioner and not to a range of departments.

ANSWER

Sections 70 to 79A of the *Patents Act 1990* set out the statutory basis for extension of term of patents for pharmaceutical substances (pharmaceutical patents). The provisions do not require IP Australia to consult with other government departments in making a decision on an application for an extension of patent term. However, IP Australia may from time to time consult other government departments in administering various provisions of the *Patents Act 1990*. In relation to the specific decision on the extension of term for patent 600,650 IP Australia did not consult other government departments.