

The Senate

Economics Legislation Committee

Budget estimates 2005–06

June 2005

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Senate Economics Legislation Committee

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Budget Estimates 2005-06

Report to the Senate

1.1 On 10 May 2005 the Senate referred to the Senate for examination and report the following documents:

- Particulars of certain proposed expenditure in respect of the year ending on 30 June 2006;
- Particulars of proposed expenditure in respect of the year ending on 30 June 2006;
- Particulars of certain proposed supplementary expenditure in respect of the year ending on 30 June 2005.
- Particulars of proposed supplementary expenditure in respect of the year ending on 30 June 2005.¹

1.2 The Committee is required to report to the Senate on, or before, 20 June 2005.

Portfolio Coverage

1.3 In accordance with the allocation of departments to committees on 17 November 2004, the Committee has responsibility for the portfolio areas of Industry, Tourism and Resources, and Treasury.

1.4 Appendix 1 lists the departments and agencies of each portfolio which appeared before the Committee.

Hearings

1.5 The Committee held public hearings from Monday, 30 May to Thursday, 2 June 2005. Copies of the *Hansard* transcript of evidence from the hearings are available on the internet at <http://www.aph.gov.au/hansard/senate/commtee/s-econ.htm>.

1.6 The Committee met for a total of 42hrs and 04mins, excluding breaks.

1.7 Representing the Minister for Industry, Tourism and Resources, and representing the Treasurer were: Senator the Hon Nick Minchin, Minister for Finance and Administration; Senator the Hon Richard Colbeck, Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry; Senator the Hon Eric Abetz, Special Minister for State and Senator the Hon Rod Kemp, Minister for Arts and Sport. The Committee also received evidence from officers of the departments and agencies concerned.

¹ *Journals of the Senate*, No. 23, 10 May 2005, p. 594.

1.8 Further written explanations and answers to questions taken on notice from departments and agencies will be tabled, when received, in volumes of 'Additional Information'.

Questions on notice

1.9 Once again, the Committee expresses its concern about the late submission of answers to questions placed on notice from the previous round of estimates.

1.10 The due date for submitting responses to questions arising from the consideration of additional estimates in February 2005 was Monday, 4 April 2005². Yet, the Committee received answers from the Australian Competition and Consumer Commission to certain questions as late as 1:20pm on Tuesday, 31 May 2005, literally minutes before the ACCC was due to appear before the Committee for its examination of Budget estimates.

1.11 The Committee notes that a similar incident occurred in relation to answers provided by the Australian Taxation Office during the consideration of the budget estimates 2004-05³. The provision of answers to questions on notice on the day of an agency's appearance is not acceptable as it does not give members adequate time to consider those answers and/or pursue follow-up questions.

1.12 Furthermore, as the ACCC is an independent statutory authority, the Committee questions why answers to questions on notice from the ACCC (and other such bodies) are forwarded to Treasury for clearance before being provided to the Committee.

1.13 The cut-off date for the receipt of answers to questions taken on notice from this round of estimates hearings is Friday, 22 July 2005.

Industry, Tourism and Resources portfolio

1.14 The Committee took evidence from the department and agencies within this portfolio on Monday, 31 May 2005 and on the morning of Tuesday, 1 June 2005.

1.15 In response to an issue which arose from the additional estimates 2004-05⁴, the Committee segmented its program for considering the estimates for the department into broad categories for its examination. The categories were: Industry (including Small Business and Innovation); General/Corporate; Resources and Energy; and Tourism.

² Economics Legislation Committee, *Additional estimates 2004-05*, March 2005, p. 1.

³ Economics Legislation Committee, *Budget estimates 2004-05*, June 2004, p. 2.

⁴ Economics Legislation Committee, *Additional estimates 2004-05*, March 2005, p. 2.

1.16 The portfolio agencies, IP Australia and Geoscience Australia were examined through their various outcomes and outputs. Tourism Australia was considered together the tourism division of the department. The Committee thanks the departmental officers for their co-operation in this matter.

Department of Industry, Tourism and Resources

1.17 On Monday, 30 May 2005, the Committee commenced its examination of the department with the areas of industry (including small business and innovation) and general/corporate. The Committee also examined IP Australia and Geoscience Australia on the first day of hearings.

1.18 Issues examined included:

- the relationship between programs;
- the department's handling of absence management, particularly sick leave and personal leave absences; and
- Australian Workplace Agreements, collective agreements, and performance based pay.

1.19 The Committee also sought up-to-date information on details of external consultants engaged by the department during the course of the financial year.

1.20 Committee members and other senators in attendance followed up on questions asked at the additional estimates in relation to permitted tenants of small business incubators⁵. All incubator tenancies had subsequently been reviewed and incubators were found to be generally compliant with tenancy criteria. Questions were also asked about the success of this program. The Committee was advised that since 2000, approximately 60% of the 1314 tenants have graduated successfully.

1.21 Offices provided an update about legal action taken by the department against Kimberly-Clark. The Committee was advised that Kimberly-Clark had appealed to the Administrative Appeals Tribunal against a departmental decision not to grant them certain funding. The Administrative Appeals Tribunal upheld the department's decision. Kimberly-Clark appealed that decision to the Federal Court and the Court upheld Kimberly-Clark's position. The department is now appealing that decision to the full bench of the Federal Court.

1.22 On Tuesday, 31 May 2005 the Committee continued its examination of the Industry, Tourism and Resources portfolio, concentrating on the areas of resources and energy, and tourism.

1.23 The Committee followed up on a matter recently considered by it in a bill, the designation of frontier areas for petroleum exploration. Parliament recently passed legislation which provides enhanced taxation incentives in frontier areas designated by

⁵ Economics Legislation Committee, *Additional estimates 2004-05*, March 2005, p. 2

the Minister. The Committee was advised that of the six areas so designated and released, bids have been received on three.

1.24 The Committee sought information about whether any work had been done within the department to quantify the effects on employment if Australia ratified the Kyoto protocol. Officers advised that no recent work had been done, but that all previous work had demonstrated adverse effects.

IP Australia

1.25 Matters examined by the Committee included:

- current status of the Syntroleum licence agreement; and
- intellectual property management.

Geoscience Australia

1.26 Matters examined by the Committee included:

- funding for the national tsunami warning centre; and
- purchasing new and upgrading existing seismic monitoring equipment.

Tourism Australia

1.27 The Committee's examination focused on staffing matters including:

- conditions of employment;
- recruitment processes; and
- the composition of a number of other non-government tourism bodies.

Treasury portfolio

1.28 The Committee took evidence from the department and agencies in this portfolio area from Tuesday, 31 May to Thursday, 2 June 2005.

1.29 As in previous estimates hearings, the Committee examined the Australian Taxation Office in conjunction with Treasury Output 2.2 – Revenue.

Australian Competition and Consumer Commission

1.30 The Committee allocated both the afternoon and evening session of Tuesday, 31 May 2005 to the examination of the ACCC, a total of 7 hours and 3 minutes.

1.31 The Chairman of the ACCC, Mr Graeme Samuel, made an extensive opening statement to the Committee in which he noted the increase in funding from the Budget which will cover expenditure relating to the establishment and ongoing operations of the Australian Energy Regulator and additional funds required for the implementation of legislation arising from the Dawson recommendations. Mr Samuel also provided an

update on issues arising since his last appearance before the Committee at the consideration of additional estimates in February, including:

- the use of the terms 'light' and 'mild' as descriptors on tobacco packaging;
- recent court decisions regarding Liquorland, Baxter Healthcare, and petrol price fixing in the Ballarat region;
- a pyramid scheme operated from the United States of America involving Australian consumers, and pyramid selling by the Australian Communications Network; and
- statistics on matters before the courts, and on current ACCC investigations.

1.32 Questions were asked about the late provision of answers to questions on notice. Officers advised that they had provided the answers to the Treasurer's office and that the delay had occurred there.

1.33 Committee questioning focused on telecommunication issues, broadband competition notice, and Telstra.

1.34 Other issues the Committee covered were:

- anti-smoking campaigns;
- competition and mergers in food retailing;
- third-line forcing;
- misleading and deceptive conduct in relation to newspaper and magazine circulation figures;
- misleading conduct on the part of airlines;
- bank mergers; and
- the establishment of the office of the Australian Energy Regulator.

Australian Bureau of Statistics

1.35 Matters examined by the Committee included:

- improved housing price index;
- data gathering from financial institutions; and
- errors in calculating retail trade figures.

Corporations and Markets Advisory Committee

1.36 The hearing focused on inquiries currently being conducted into corporate social responsibility, and personal liability.

National Competition Council

1.37 Committee members asked questions relating to:

- the ongoing role of the organisation following the cessation of competition payments to the states;
- state legislation which caps the number of pharmacies that a pharmacist may own; and
- the progress of competition reforms in pharmacies, and whether excessive competition reforms might reduce the quality of services provided to patients.

Productivity Commission

1.38 The Committee examined matters regarding the Commission's report evaluating national competition policy reforms.

1.39 Other topics covered included infrastructure reform, first home ownership, negative gearing and increasing participation of older Australians in the workforce.

Australian Prudential Regulation Authority

1.40 Deputy Chairman of APRA, Mr Ross Jones made an opening statement focusing on the authority's main areas of activity for the year.

1.41 The Committee explored a range of matters including the impending introduction of choice-of-superannuation funds. Questions focused on fees and charges and APRA's risk rating of smaller funds.

1.42 Questions were also asked in relation to an APRA press release regarding undertakings from AXA, a major insurance company and provider of superannuation services. Complaints had been received in relation to a superannuation fund for AXA staff who were allegedly not given enough information to make an informed decision about whether to switch a fund.

Australian Securities and Investments Commission

1.43 Mr Jeffery Lucy, Chairman, ASIC, made a short opening statement in which he outlined developments which have occurred since the February additional estimates hearing. These included:

- the launch of ASIC's strategic five-year plan;
- court verdicts in relation to the collapse of HIH;
- inquiries into the conduct of James Hardie Industries;
- introduction of choice-of-superannuation scheme; and
- review of audit regulation, specifically compliance with CLERP 9 requirements.

1.44 Committee members took a continuing interest in the HHH matter and asked a series of questions in relation to the prosecutions of the CEO and former directors. An issue which was discussed was whether guilty verdicts should be accepted early in a trial. ASIC commented that while this obviates the need for a trial, at the beginning of a trial it can be counterproductive as it is not possible to assess whether the charges adequately reflect the extent of the criminal culpability of the individual. Questions were asked about whether the Commission was surprised at weight of sentences, given the damage caused by the offences. ASIC did not appeal the sentences and informed the Committee they were not surprised by the sentences but noted that since then, penalties have been increased for some offences from 2 to 5 years.

1.45 A second major issue that emerged during the examination of ASIC was the continuing fallout from the James Hardie asbestos affair. The Committee was informed that ASIC has established a dedicated task force in relation to this matter, and that the Government provided an extra \$3.6M in the 2005-06 financial year for this. A series of questions were asked about an alleged initiative of the NSW Government to extinguish civil liability in respect of claims against the directors and staff of James Hardie.

1.46 Other issues covered during ASIC's examination included:

- choice-of-superannuation funds scheme;
- third line forcing;
- disclosure of fees and charges; and
- the legality of advertising by industry super funds.

1.47 A final issue examined was ASIC's budget, which like other agencies is subject to efficiency dividends. The Committee was informed that ASIC staffing is set to fall but was assured that efficiency would be maintained.

Treasury

1.48 The Committee commenced its examination with a broad range of domestic macroeconomic issues, including:

- impacts of the drought on the economy;
- skills shortages and effects on the labour market;
- economic modelling of the proposed workforce participation reforms and workplace relations laws;
- the current account deficit;
- impact of the proposed tax cuts; and
- housing markets.

1.49 Committee members also sought information about the new choice-of-superannuation funds regime and in particular, the preparation of product disclosure statements by superannuation funds.

Australian Taxation Office

1.50 The Committee's initial focus during its examination of the ATO was on issues surrounding the withholding schedules for personal income tax deductions and the process by which schedules are 'made'. Questioning centred on when the Commissioner should have made the schedules, what the Commissioner could reasonably anticipate the correct scales would be when making the schedules, and whether he could reasonably anticipate what would happen in Parliament.

1.51 Other matters arising during the ATO's appearance included:

- the status of certain organisations as registered gift deductible recipients;
- taxation of incomes earned by sports people; and
- mass marketed schemes and settlements policy.

Inspector-General of Taxation

1.52 In its consideration of the appropriations for the Inspector-General of Taxation, the Committee examined issues relating to mass marketed schemes and the Inspector-General's report on this matter.

SENATOR GEORGE BRANDIS
Chair

APPENDIX 1

Industry, Tourism and Resources portfolio

Department of Industry, Tourism and Resources

IP Australia

Geoscience Australia

Tourism Australia

Treasury portfolio

Australian Bureau of Statistics

Australian Competition and Consumer Commission

Australian Prudential Regulation Authority

Australian Securities and Investments Commission

Australian Taxation Office

Corporations and Markets Advisory Committee

National Competition Council

Productivity Commission

Treasury