

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

21 – 22 October 2009

Question: sbt 2

Topic: “Water Trading Rules Position Paper”

Hansard Page: Written

Senator XENOPHON asked:

Currently, there is no regulation of water brokers. The ACCC's "Water Trading Rules Position Paper", released in September 2009, argued that "there is insufficient evidence to support the introduction of specific regulation of water market intermediaries.

- a) Given that \$12.9 billion of taxpayers money is going towards water reform, would it not be appropriate that water brokers are regulated to ensure best practice?
- b) What evidence would be sufficient to require regulation?
- c) Isn't the potential for inappropriate and unethical practices much greater in the absence of appropriate regulations?

Answer:

(a) – (c)

The generic consumer protection regime contained in the *Trade Practices Act 1974* (TPA) and state and territory fair trading legislation applies to the conduct of water market intermediaries. The TPA and similar fair trading legislation in each state and territory prohibits, inter alia, misleading or deceptive conduct, false representations and unconscionable conduct. Additionally, other serious concerns such as fraud, theft and trading while insolvent are covered by the criminal law and the *Corporations Act 2001*.

The ACCC has released material for water market intermediaries and their customers on their rights and obligations under the TPA. The material also identifies the ACCC and fair trading agencies as contact points for consumers to lodge any complaints.

The ACCC is currently developing advice to the Murray-Darling Basin Authority on water trading rules to form part of the Basin Plan. As part of this process, the ACCC released draft advice on water trading rules in December 2009. The ACCC's draft advice is that Basin Plan water trading rules cannot directly regulate the conduct of water market intermediaries and that industry-specific regulation is a matter for governments (federal and Basin state) to consider. The ACCC notes that it and other government regulators have received very few complaints about water market intermediaries. The ACCC recommended that fair trading agencies continue to monitor complaints against water market intermediaries.