

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

29 May – 31 May 2012

Question: BET 217-220

Topic: Exchange of 'Real-time' Information

Hansard Page: Written

Senator XENOPHON asked:

In the recent estimates hearings, the Chairman stated that the exchange of 'real-time price information between competitors is a potential problem', even when this information was released to consumers.

217. Can the ACCC expand on these concerns?
218. Does the ACCC have similar concerns in relation to businesses like Wotif and Webjet, which provide cheap deals to consumers by publishing real time information?
- a) If not, why not?
- Equally, when Virgin Australia members go to Virgin's online ticket sales, they can see not only how much each flight costs, but how many seats are remaining. This is therefore both pricing and volume information.
219. What is the ACCC's position on this?
220. Do these concerns also apply to online shopping? Both Coles and Woolworths now sell groceries online – does the ACCC consider this to be an 'exchange of real-time information'?
- a) If not, why not?

Answer:

217. In certain markets, and in certain circumstances, the availability of real time pricing information may lead to competition concerns through the coordination of pricing which may lead to higher prices for consumers than would otherwise be the case. Possible concerns relate to the availability of the information itself and the way in which competing firms make use of the information. These concerns may not necessarily be lessened or removed should the same or a subset of the price information be made available more broadly and for example to consumers.

In its 2007 Petrol Price Inquiry report, the ACCC expressed concerns about the effect on competition in the retail petrol market of the direct exchange of retail price information on a near real time basis between the petrol retailers who subscribe to the Informed Sources Oil Price Watch system.

The petrol price sharing arrangements allow for the private and very frequent exchange of comprehensive price information between the major petrol retailers through a third party.

On 3 May 2012 the ACCC announced it had commenced a formal investigation into price information sharing arrangements in the retail petrol industry.

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Reflecting the possible competitive harms arising from certain forms of information sharing or price signalling, on 6 June 2012 new laws prohibiting anti-competitive price signalling and information disclosures came into effect. The new provisions in the *Competition and Consumer Act 2010* (the Act) target the banking sector and are only in relation to the taking of money on deposit and making advances of money or loans.

The new laws focus on the disclosure of information and, broadly, make it per se illegal to disclose prices to competitors in private (where doing so is not in the ordinary course of business) but also disclosing information in public or in private where it is done so for the purpose of substantially lessening competition in a market. These provisions reflect that, in certain circumstances, the sharing of information, even in a public manner, can give rise to competition concerns.

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As outlined in 217 above, in certain markets and in certain circumstances, access to competitors' real time pricing data, publicly or privately, may adversely impact on competition.

Amongst other things, the Act prohibits agreements between competitors that have the purpose or effect of substantially lessening competition. The ACCC would be concerned in any industry where the sharing of pricing and volume information has this purpose or effect.

While there is pricing information on grocery retailers websites and comparison sites such as Webjet and Wotif (and limited volume information on carriers' websites) the information on those sites focussed on selling goods or services to consumers rather than providing a mechanism for competitors to monitor pricing behaviour and facilitate price signalling. Other distinguishing features to note when comparing these sites to the fuel price information exchange are the different demand and supply side characteristics of the relevant markets and the level of product differentiation.