

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

Question: BET 320-322

Topic: Unfair Practices Laws

Written: 13 June 2013

Senator BOSWELL asked:

320. Has the ACCC received any complaints regarding unfair practices that would relate to the new unfair practices laws in the Competition and Consumer Act. How many complaints? What is their nature?
321. Has the ACCC taken any complaints that relate to unfair practices that involve a transaction between a large and small business? If so, how many, and what has been their nature?
322. Has the ACCC been prevented from taking any action on unfair practices between a large and small business because those unfair contracts laws do not cover small business?

Answer:

320. From 1 July 2012 to 31 March 2013 the ACCC recorded 222 contacts as potentially relating to unfair contract concerns. Of these contacts, 210 were marked as complaints. The nature of these complaints is disparate and the issues complained about vary. The most commonly identified issues related to travel and accommodation agreements, gyms, fitness centres and sporting association memberships, telecommunication contracts and consumer rental agreements for goods.

The following media releases provide further detail in relation to the ACCC's activities concerning unfair contract terms:

- [Unfair contract terms deleted following ACCC review](#) (ACCC media release dated 15 March 2013)
 - [ACCC institutes proceedings against ByteCard Pty. Limited for unfair contract terms](#) (ACCC media release dated 22 April 2013)
 - [Interlocutory orders made against Titan Marketing by consent](#) (ACCC media release dated 27 June 2013).
321. 34 out of the 210 complaints identified as originating from small businesses. The most commonly identified issues for these business-related complaints concerned advertising contracts, agreements about the supply of goods to and from the business, franchise disputes and bundled services and finance agreements.
322. In considering complaints received by small businesses, the ACCC has regard to the applicable provisions of the *Competition and Consumer Act 2010* (including the Australian

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Consumer Law). It is likely that a number of complaints raised by small businesses would have been further considered under the unfair contract provisions had they applied to business transactions. This said, where concerns of harm are identified by the ACCC that it believes warrant further action, consideration can and is given to whether other provisions of the law, such as prohibitions on unconscionable and misleading or deceptive conduct, may address the concerns raised.