

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
Budget Estimates 2014
3 June to 5 June 2014

Department/ Agency: Australian Competition and Consumer Commission

Question: BET 1316

Topic: Legal Costs

Reference: Written – 12 June 2014

Senator: Ludwig

Question:

1316. List all legal costs incurred by the department or agency since Additional Estimates in February, 2014

- a) List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external
- b) List cost spend briefing Counsel, broken down by hours spend briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
- c) How was each piece of advice procured? Detail the method of identifying legal advice

Answer:

1316. From 1 March 2014 until 31 May 2014, the ACCC incurred \$4,967,092.65 (GST exclusive) in external legal costs. The ACCC also has an internal legal group which provides legal advice and services, as well as other services such as freedom of information coordination and legal technology. The ACCC's in house lawyers cannot appear as solicitors on the record in litigation, and therefore external solicitors must be instructed. From 1 March until 31 May 2014, the ACCC's internal legal group cost \$2,917,123 (GST exclusive). This figure is inclusive of on-costs and ancillary non-legal services such as those indicated above.

- a) Legal advice is often intertwined with broader legal services, including the preparation for and conduct of litigation, and the ACCC does not distinguish the costs of legal advice from costs of other legal services, therefore the following response relates to legal services costs. Of the ACCC's external legal costs from 1 March until 31 May 2014, \$4,356,111.16 (GST exclusive) was legal professional fees (including fees for both law firms and counsel) and \$610,981.49 (GST exclusive) was legal disbursements (including filing fees and witness costs). External legal services were provided by junior and senior counsel, as well as solicitors of varying levels of seniority from law firms. Internal legal services were provided by the ACCC's legal unit. It would be an unreasonable diversion of resources to provide an hourly breakdown of legal services.
- b) Counsel fees were \$1,066,127.97 (GST exclusive), of which \$995,995.61 were fees for counsel briefed via a law firm instructed by the ACCC and \$70,132.36 were fees

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for counsel directly briefed by the ACCC. Of the counsel briefed, 45 counsel were male, 13 counsel were female. It would be an unreasonable diversion of resources to provide an hourly breakdown of counsel services.

- c) The ACCC procures its external legal services in three main ways: through a parcelling arrangement with 5 law firms for competition, merger and regulatory law work; through another parcelling arrangement with 6 law firms for consumer law work; and through the direct briefing of counsel. The two parcelling arrangements are based on the Legal Services Multi-Use List (LSMUL) established by the Attorney-General's Department for Commonwealth legal services. Expenditure on external legal services, including detailed estimates, must receive prior approval by the ACCC's Executive General Manager, Legal and Economic Division before any legal services can be undertaken. The ACCC has requirements on internal and external legal providers to ensure that all substantive legal advice is captured in a central internal database maintained by the ACCC.