

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

**Department/ Agency:** ACCC

**Question:** BET 24

**Topic:** Misleading apps

**Reference:** Hansard, pg45-46, 4 June 2014

**Senator:** Xenophon

**Question:**

24. Senator XENOPHON: Again, if I can direct you to what the UK Office of the Fair Trading said about making use of information websites and phone apps that can save money. My final question in respect of this is: what is the ACCC doing to crack down on misleading apps that are out there, which appear with poor or no data, that could be seen to be a rip-off of motorists? In other words, has the ACCC received complaints about such apps? I understand that there are some apps out there that are misleading. I would like to know whether you have received any complaints and whether you will be investigating those complaints about those apps that purport to give information to consumers but in fact—colloquially—rip them off.

Mr Sims: I am not aware that we have had complaints—

Senator XENOPHON: You could take that on notice.

Mr Sims: I am happy to take it on notice. We do crack down on services that give information to consumers that is misleading. We have done that with energy websites where people go to see where the cheapest price is but are redirected to the company that is paying for that website. So we will look out for that but, again, our concern with information-sharing as it goes on at the moment is that is information being shared only amongst competitors.

Senator XENOPHON: Can you on notice respond to the concerns I have raised in terms of what Dr Michael Noel, David Byrne, Gordon Leslie and Roger Ware have said in their research—the UK Office of Fair Trading? It seems that this is one area where the ACCC's position—and I am not being critical—is at odds with what economists and consumer bodies are saying.

Mr Sims: We will take it on notice. I will just say that we have no problem with consumers getting access to information. That is not what this investigation is about; it is about information-sharing amongst competitors. The information is not going to consumers, except with a lag twice a day. The information we are worried about is going to competitors.

Senator XENOPHON: If there was full disclosure to consumers at the same time, would that go a long way in allaying your concerns?

Mr Sims: Our concern is with information-sharing amongst competitors. I would imagine we would probably still have that concern—just as the Germans have made sure the information does not go to the competitors. Our concern is the real-time information to competitors, where I can see immediately whether you are following the price I just put up and so forth. As I say, what goes on in Australia would be illegal in most jurisdictions in the world.

Senator XENOPHON: If you can take those questions on notice, that would be great.

Mr Sims: We will certainly look at that and get back to you. It is a very important issue and we take it very seriously.

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**Answer:**

24. The ACCC's current investigation into price sharing arrangements in the retail petrol industry is focused on an arrangement that allows for the highly frequent and private exchange of pricing information between competitors.

Key to the ACCC's concerns is that competitors know that their prices (on a site basis) are being received and observed by their rivals on a very frequent and timely basis. The ACCC is concerned that this knowledge has enabled competitors to signal their future pricing intentions and reduced the incentive for competitors to compete as aggressively on price as otherwise might be the case. This has implications for the petrol price cycle.

Byrne, Leslie and Ware (2013)<sup>1</sup> studied the impact of coordinated pricing strategies and responsive consumer behaviour in generating the price cycle, using price data from Canada.

Since 1 July 2013 the ACCC has not received any contacts about fuel apps.

The ACCC has investigated concerns of misleading representations in a fuel price app. In this matter, the ACCC achieved an administrative resolution, where the trader changed the representations after being contacted by the ACCC.

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<sup>1</sup> DP Byrne, G Leslie, R Ware, 'How do Consumers Respond to Gasoline Price Cycles?', University of Melbourne Research Paper, 2013