

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2016 - 2017

Department/Agency: Treasury

Question: BET237-253

Topic: Effects test

Reference: Written - 5 May 2016

Senator: Chris Ketter

Question:

237. Does Treasury believe there will be any sort of behavioural or price impact resulting from legislating an effects test? Please explain the basis on which you make this assessment.
238. Has Treasury done modelling on the economic and price impacts flowing from an effects test?
239. How was the impact of the effects test modelled?
240. What price impact modelling was done? What did that modelling show?
241. Was it provided to the Treasurer's office?
242. Have stakeholders raised concerns with Treasury during its discussion paper consultations that an effects test could threaten business ability to engage in discounting, like for example, the \$1 milk that Coles and Woolworths have? Which stakeholders?
243. Does Treasury have a view on the potential for discounting behaviour to be caught by an effects test?
244. Why are higher prices or lower prices for basic goods (like milk) preferable for consumers?
245. How do lower prices for basic goods, place downward pressure (at the margin) on inequality?
246. How will the effects test cause upwards pressure on the price of basic items like milk?
247. Have you estimated the level of litigation that will occur due to the Effects Test?
248. What change will new legislation for the effects test have on existing competition case law in the Federal Court?
249. What impact will changing Section 46 have on existing case law, such as the Queensland Rail decision?
250. Has this been considered by Treasury? When did this occur?
251. Will this create uncertainty?

Senator Ketter also asked the following additional questions:

252. Does Treasury agree "that the proper price of milk is above a dollar"?
253. What is the 'proper price' for milk?"

Answer:

237. Refer to page 121 of the Hansard of 6 May 2016.
238. Refer to page 121 of the Hansard of 6 May 2016.
239. Refer to page 121 of the Hansard of 6 May 2016.
240. Refer to page 121 of the Hansard of 6 May 2016.

241. Not applicable.
242. Refer to page 122 of the Hansard of 6 May 2016.
243. Refer to page 122 of the Hansard of 6 May 2016.
244. Prices that are determined within a competitive market are preferable as they reflect the most efficient allocation of scarce resources among the consumers who are most willing to pay for them.
245. The relationship between price changes and inequality is complex. Measures of income inequality do not reflect prices and so would be unaffected however price changes may alter consumption inequality since it reflects differences in consumption expenditure. The impact on consumption inequality of a price fall depends on how consumers respond to the price fall and where those consumers are placed in the expenditure distribution. For example, if all consumers respond to a price fall by increasing expenditure to maintain the same overall level of expenditure, then measured inequality will likely be unchanged but if some consumers respond differently consumption inequality could rise or fall.
246. The proposed changes to section 46 will not place upward pressure on the price of goods and services. The changes are pro-competitive and will deliver improved outcomes for consumers.
247. Refer to page 122 and 123 of the Hansard of 6 May 2016.
248. Refer to page 122 and 123 of the Hansard of 6 May 2016.
249. Refer to page 122 and 123 of the Hansard of 6 May 2016.
250. Refer to page 122 and 123 of the Hansard of 6 May 2016.
251. Treasury agrees that with any change to the law there will be some uncertainty; however the amendments to section 46 are designed to reduce uncertainty. The amendment uses existing legal concepts from within the competition law and retains a focus only on those firms that have a substantial degree of market power.
252. Refer to page 122 and 123 of the Hansard of 6 May 2016.
253. Refer to page 122 and 123 of the Hansard of 6 May 2016. Treasury has not done analysis to suggest what the proper price of milk might be.