Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2016 - 2017

Department/Agency: Treasury
Question: BET 333
Topic: Effects Test
Reference: Hansard page no. 122 - 06 May 2016
Senator: Chris Ketter

Question:

Senator KETTER: Does Treasury have a view on the potential for discounting behaviour to be caught by an effects test?
Mr Lonsdale: We might come back to you on that.

Answer:

The new section 46 is not intended to capture ordinary discounting or sales, irrespective of whether a firm has, or does not have, a substantial degree of market power. Ordinary discounting behaviour will not substantially lessen competition. Discounting is almost always pro-competitive as it prompts competitors to lower their own prices to compete for sales, which gives consumers a better deal.

However, where a firm does have a substantial degree of market power and that firm discounts so heavily (usually below cost and for an extended period of time) as to eliminate its competitors or prevent a new firm entering the market (also known as predatory pricing), this behaviour is likely to be caught by the new section 46. Predatory pricing is anti-competitive, raises barriers to entry, reduces the range of choices for consumers, and ultimately leads to higher prices once competition is eliminated.