

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2014 - 2015

Department/Agency: ACCC

Question: SBT 733-736

Topic: Legal Costs

Reference: written - 30 October 2014

Senator: Ludwig, Joe

Question:

Since Budget Estimates in June, 2014:

- 733. List all legal costs incurred by the department or agency
- 734. 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
- 735. List cost spend briefing Counsel, broken down by hours spent briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
- 736. How was each piece of advice procured? Detail the method of identifying legal advice

Answer:

- 733. From 1 June 2014 until 31 October 2014, the Australian Competition and Consumer Commission (ACCC) incurred \$10 544 094 (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 June 2014 until 31 October 2014, the ACCC's internal legal group cost \$4 467 218 (GST exclusive). This figure is inclusive of on-costs and ancillary non-legal services such as those indicated above.
- 734. 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 related to legal services costs. Of the ACCC's external legal costs from 1 June 2014 until 31 October 2015, \$9 185 449 (GST exclusive) was legal professional fees (including fees for both law firms and counsel) and \$1 358 645 (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.
- 735. Counsel fees were \$2 100 449 (GST exclusive), of which \$1 854 148 were fees for counsel briefed via a law firm instructed by the ACCC and \$246 301 were fees for counsel directly briefed by the ACCC. Of the counsel briefed, 21 were female and 48

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were male. It would be an unreasonable diversion of resources to provide an hourly breakdown of counsel services.

736. The ACCC procures its external legal services in three main ways: through a parcelling arrangement with five law firms for competition, merger and regulatory law work; through another parcelling arrangement with six 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 & 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.