

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2015 - 2016

Department/Agency: ACCC

Question: SBT 51

Topic: Collusion

Reference: Hansard page no. 121 - 21 October 2015

Senator: Dastyari, Sam

Question:

Senator DASTYARI: Okay. You may want to take this on notice, Mr Sims. I have a policy question, and I note that there are two components to it. With the law as it currently stands, if there are secret meetings and secret phone calls—when someone says to someone else, 'Hey, next Tuesday we're going to increase, you should increase too'—it is pretty obvious that is collusion; you do not have to be a rocket scientist. The broader policy question is about public signalling. Are there guidelines on what is and what is not public signalling? Is there a document somewhere?

Mr Sims: Yes, we do have guidelines. I am pretty sure we do, don't we? We put them out at the time—yes, we have guidelines, Senator.

Senator DASTYARI: I am sure it is on the public record, so we can come back to this another time. If you are able to provide on notice what guidelines or what documents you may have? I probably could find them on your website.

Mr Sims: We will do that, and we will give you the example. I am sorry we are not able to; it is just not something that has been top of mind.

Answer:

In June 2012, laws prohibiting anti-competitive price signalling and information disclosures were introduced. Presently these laws only apply to the banking sector in relation to taking deposits and making loans.

Price signalling occurs when banking companies:

- Disclose prices to competitors in private where doing so is not in the ordinary course of business. For example Bank A privately discloses future pricing information to Bank B. The information is communicated using code words in order to avoid the disclosure being detected.
- Discloses information (in public or in private) for the purpose of substantially lessening competition in a market. The information may relate to price, capacity or commercial strategy. For example, Bank A devises a campaign to signal its intention not to reduce its rates and test rivals' willingness to do the same. In doing so, it wants to reduce the pressure of competition. The campaign includes Bank A executives making a series of public statements indicating its reluctance to pass through (or fully pass through) reductions in the cash rate ahead of an announcement by the Reserve Bank.

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Following the introduction of the new law, on 6 June 2012, the ACCC released the publication *Anti-competitive price signalling and information disclosures*, available on the ACCC website: <http://accg.gov.au/system/files/Anti-competitive%20price%20signalling%20and%20information%20disclosures.pdf>.

The ACCC also has simplified information available on our website: <http://www.accc.gov.au/business/anti-competitive-behaviour/price-signalling>.