

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

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23 – 24 February 2011

Question No: AET 33

Topic: ACCC – FRANCHISING CODE OF CONDUCT

Hansard Page: Written

Senator Ryan asked:

Since the changes to the Franchising Code of Conduct, how many franchisors have been subject to a random audit?

How many substantiation notices has the ACCC issued to franchisors?

How many fines has the ACCC issued relating to the amended Franchising Code of Conduct? What is the value of those fines?

Can the ACCC please provide a time series of the number and value of fines relating to breaches of the franchising code of conduct for the last four years?

How many times has the ACCC requested documents from a business relating to the Franchising Code of Conduct?

What discussions has the ACCC had with state governments in WA and SA in relation to their proposed changes to rules for franchisors in those particular states?

Given that the proposed reforms will allow the states to issue financial penalties, will it be possible for a franchisor to receive penalties from both the state and federal governments for the same violation?

Answer:

Amendments to the Franchising Code of Conduct (Franchising Code) came into effect on 1 July 2010. The audit power was introduced on 1 January 2011. The ACCC is currently planning an audit of a number of franchisors for compliance with the Franchising Code.

The ACCC has not yet issued a substantiation notice in relation to claims or representations made by a franchisor in the supply of goods or services. Substantiation notices cannot be issued for suspected breaches of the Franchising Code.

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The *Competition and Consumer Act 2010* (the Act) does not provide for fines for breaches of the Franchising Code.

The ACCC will often request documents from a business once a matter reaches the 'initial investigation' stage, which follows the 'under assessment' stage. In 2010, the ACCC conducted 51 franchising related initial investigations.

The Department of Innovation, Industry, Science and Research (DIISR) is responsible for franchising policy. DIISR has made submissions to the committees in Western Australia and South Australia who are currently considering the proposed state franchising laws.