

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates 2012

15 – 17 February 2012

Question: AET 1241

Topic: Component Pricing – Airline Tickets

Hansard Page: 15 Feb 2012, pg 132

Senator RYAN asked:

Senator RYAN: I would like to turn briefly to the issue of component pricing, which I know the ACCC has dealt with years ago, when it comes to airline tickets, when our airlines, domestically and internationally, started to levy what were called fuel surcharges. My questions, which might need to be taken on notice, go to the fuel surcharges today. I know there is no particular rule against component pricing, and the airlines advertise a final price on their websites at the moment, but I am particularly interested in the credit card fees. The credit card fees on airlines range, I think, from \$5 to \$8 per transaction. They are described as credit card processing fees. They do not seem to reflect the cost of processing a credit card. If they are described in such a way, is that an issue which the ACCC would consider to be in some way misleading, particularly because there is not always another option of payment?

Mr Cassidy: The answer to that is more than a two-minute one, so I might take up your offer and we will take that on notice, but we will provide you with a fulsome answer.

Senator RYAN: Cool. I will probably come back to you in May, when we have got more time.

Mr Cassidy: Sure.

Answer:

Section 48 of the Australian Consumer Law (ACL) requires that where component pricing is used in a representation made by a business to consumers, a single price must also be provided. The single price must be stated as prominently as any component and must be inclusive of all quantifiable amounts so that it shows the minimum total price payable by a consumer to obtain the relevant product or service.

In March 2011 the ACCC announced that eight major airlines serving Australian consumers had improved the way they advertise airfares in response to concerns raised by the ACCC. During a review of airlines and online travel agents for compliance with these obligations, the ACCC had identified several airline websites that did not display airfare prices inclusive of all taxes, duties, fees and other mandatory charges.

In January 2012 the ACCC instituted legal proceedings in the Federal Court against Airasia Berhad Company Number 284669-W. The ACCC alleges that Airasia Berhad Company Number 284669-W did not display at certain points on its website some airfare prices inclusive of all taxes, duties, fees and other mandatory charges. The ACCC is seeking declarations, injunctions, corrective notices and penalties.

Section 18 of the ACL prohibits a person, in trade or commerce, from engaging in conduct that is misleading or deceptive, or is likely to mislead or deceive. In considering whether the

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alleged conduct contravenes section 18 of the ACL, it is relevant to consider whether the overall impression created by the alleged conduct is likely to lead people into error or has the tendency to deceive such persons. This will depend on the circumstances of each case.

Depending on the precise nature of the representation made, should a business represent that a charge applied reflects particular costs when that is not the case, then concerns may arise under the misleading and deceptive provisions of the ACL. However, care needs to be taken in considering the precise representations made. For example, whether it represents only the direct costs (for example credit card fees applied by the bank) or potentially more broadly to reflect transaction handling costs to the business.

The ACCC would expect any trader to be able to substantiate any claim made that a fee charged represented the processing costs associated with a credit card.