

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates, 1 to 4 June 2004

**Question: Bud 17**

**Topic: ACCC – Litigation – Part IV and Part V**

**Hansard Page: E8**

Senator Brandis asked:

**CHAIR**—Thank you very much, Mr Samuel. This question is perhaps to Mr Cassidy. Can you bring us up to date on current litigation, please, under both part IV and part V? Since the last estimates hearings, how many cases have been instituted, how many have been discontinued, how many have been resolved and, in the case of those that have been resolved, what was the outcome? In relation to pending appeals to the full Federal Court and the High Court, can you bring us up to date on where cases in that category stand as well?

**Mr Cassidy**—Given that that involves a reasonable amount of detail, that is probably a question we will need to take on notice. In a broad brush sense, we currently have 41 cases in court and we have just over 200 serious investigations on foot, but the breakdown of that, if I can, I will take on notice.

Answer:

**1. Enforcement proceedings currently before the courts as at 3 June 2004\***

<b>Part of the TPA under which conduct is alleged</b>	<b>Litigation in the Federal Court</b>	<b>Litigation in the Full Federal Court</b>	<b>Litigation in the High Court</b>
IV	14		1
IVA	1		
V	13	2	2
V & IVA	2	1	
IV, IVA & V	2		
IVB & V	1		
IV & V	2		

\* includes matters with judgement pending

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**2. Enforcement related proceedings commenced since last Senate Estimates (From 19 February 2004 to 3 June 2004)**

<b>Part of the TPA under which conduct is alleged</b>	<b>Litigation in the Federal Court</b>
<b>IV</b>	<b>1</b>
<b>V</b>	<b>3</b>

**3. Enforcement proceedings concluded since last Senate Estimates (19 February 2004)**

**First Instance Proceedings**

<b>Matter</b>	<b>Part</b>	<b>Alleged Conduct</b>	<b>Outcome</b>
ACCC v Earthstrength Bags	V	53, 55, 52	Declarations, Injunction and compliance program by consent
ACCC v Australian Aboriginal Art Pty Ltd & others	V	52	Declarations by consent
ACCC v Australian Icon Products Pty Ltd	V	52	Declarations by consent
Medibank Private v ACCC	V	52, 53(c), 53(e)	Declarations and corrective advertising by consent
ACCC v Morgan Buckley Pty Ltd & A Whitelum	V	52, 53(e)	Proceedings discontinued - s87B Undertaking that respondents maintain professional accreditation standard
ACCC v ABB – Distribution Transformers	IV	45, 45A, 45-(4D)	Penalties of \$14 million
ACCC v ABB – Power Transformers	IV	45	See above ABB matter
ACCC v Berri Limited	V	52, 53(a), 53(eb), 55	Injunctions and contribution to costs by consent
ACCC v Cadbury Schweppes	V	52, 53(a), 55	Injunctions and contribution to costs by consent
ACCC v David Francis	V	52, 53(c), 55	Declarations
ACCC v AMWU, AWU & CEPU	IV	45D&E	Declarations, Injunction and compliance program by consent

**Appeals – High Court**

<b>Matter</b>	<b>Part</b>	<b>Conduct</b>	<b>Outcome</b>
ACCC v Visy	IV	45	Remitted to Federal Court for hearing on penalty