

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates, 31 May to 2 June 2005

Question: Bud 1

Topic: ACCC - Electronic Program Guide (EPG)

Hansard Page: Written

Senator Conroy asked:

1. Is the ACCC aware of media reports suggesting that broadcasters are unwilling to provide or facilitate the production of electronic program guides as part of their digital television transmissions because they are concerned about the effect of the take-up of personal video recorders on their business?

[See for example Alan Kohler, *Ad-free TV just a click away, five years late, Age 24 August 2004*]

2. Has the ACCC investigated this issue?
3. Does the ACCC have any concerns about broadcasters restricting the availability of electronic program guides?

If yes, could you please outline the nature of those concerns?

Answer:

1. The ACCC has not received any complaints with regard to the issue of the production of electronic program guides as part of digital television transmissions.
2. The ACCC has not investigated this issue – no complaints have been received.
3. The ACCC has not identified any specific concerns regarding Free-to-air broadcasters restricting the availability of electronic program guides.

However, the ACCC has previously considered the issue of access and placement on Foxtel's EPG in the context of Content Supply Agreement entered into between Foxtel and Optus in November 2002.

As the pay TV agreements strengthened Foxtel's position in the market for pay TV content acquisition, the ACCC was similarly concerned about Foxtel's ability to discriminate against non-affiliated channels in relation to placement upon Foxtel's EPG. In response to this concern, a provision was inserted in Foxtel's digital access undertaking submitted to the ACCC under section 87B of the *Trade Practices Act 1974* requiring Foxtel to negotiate with an access seeker for EPG services. Any dispute which arises in negotiations between the access seeker and Foxtel for access

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to EPG services is subject to the dispute resolution provisions within the digital access agreement.