

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 30 May – 1 June 2006

Question: bet 123 (ACCC)

Topic: Implications for King Island

Hansard Page: E67

Senator SHERRY asked:

Given the vertical integration of the structure of the new business, it seemed to me it would still leave them with a substantial advantage despite the divestment.

Mr Grimwade—It leaves them with really what they started off with. In terms of vertical integration, as Mr Samuel mentioned at the beginning of the estimates hearing, the critical feature for us was the proposed divestiture of 50 per cent of Pacific National, which was the fundamental problem from a vertical integration perspective for the commission.

Senator SHERRY—Really getting down locally now, did you consider the implications for King Island?

Mr Grimwade—I cannot recall to what extent we looked at that, but I can ask my staff to what extent we did.

Senator SHERRY—Can you come back to me with something on notice?

Answer:

The ACCC has received representations from Bass Strait and King Island market participants and other parties, including Senator Sherry and interested parties from King Island. These representations outlined concerns with regard to the potential consequences of the acquisition for Bass Strait freight shipping services, particularly in relation to the cessation of existing shipping services to and from King Island.

The ACCC discussed the abovementioned Bass Strait issues with parties expressing concerns specifically with regard to King Island. From these discussions, it was apparent that the concerns were generally focused on whether the existing King Island service would continue to operate post-acquisition, rather than on the ultimate ownership of the Bass Strait shipping assets currently held by Patrick and Toll.

Once proceedings had been initiated by the ACCC in the Federal Court, Toll came forward with substantial section 87B undertakings. These undertakings sought to ensure that the situation that prevailed prior to the proposed acquisition (where Toll and Patrick were strong competitors in Bass Strait shipping) would continue. In particular, the ACCC sought from Toll a commitment to divest Patrick's Bass Strait freight shipping business including its vessels, contracts for freight forwarding services, and access rights to port facilities. In doing so, the ACCC sought to provide a framework under which the acquirer of Patrick's business would have access to all

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the elements required to enable them to continue the shipping services currently being offered on Bass Strait by Patrick.