

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates 30 May – 1 June 2006

**Question: bet 34(ACCC)**

**Topic: Operational Separation – Progress of Pricing Agreement**

**Hansard Page: Written**

**Senator CONROY asked:**

I have a number of questions about the ACCC's involvement in the finalization of the terms of Telstra's Operational Separation Plan.

On 16th May this year, the Minister, Senator Coonan stated that in respect of Telstra's Operational Separation Plan a doorstep that: "We've just got a couple of little bits to go on that. Telstra have now resubmitted some information to me and I will find that acceptable."

- (1) Had the ACCC been consulted by the Minister on Telstra's resubmitted Operational Separation Plan before the Minister made this comment?
- (2) Have you been consulted by the Minister on Telstra's resubmitted Operational Separation Plan yet? I assume the government will dump out the final plan on the day after estimates so it's pretty close to release now.
- (3) What is the status of the negotiations between Telstra, the ACCC and DCITA on the establishment of the pricing equivalence framework for the Operational Separation regime?
- (4) We've established earlier that there were currently 36 access arbitrations underway and a competition notice on foot – there is a bit of a need to get this regime squared away as soon as possible isn't there?
- (5) Does the ACCC have the resources to deal with all of these issues? I mean 36 arbitrations, a competition notice, 3 ACT appeals, a Federal Court challenge, a ULL undertaking, the pricing equivalence framework and Telstra's fibre to the node plans. It seems like a pretty heavy work load. Does the ACCC have the resources to do its job effectively here?

**Answer**

- (1) The ACCC reviewed Telstra's revised Draft Operational Separation Plan (OSP) (dated 31 March 2006) that Telstra submitted to the Minister, and provided comment on the revised OSP to Department of Communications, Information Technology and the Arts on 21 April 2006. The ACCC was not provided with any further revisions, if any such revisions had taken place, to Telstra's OSP since that time.
- (2) See response to question 1 above.

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- (3) The Price Equivalence Framework Working Group comprising the ACCC, Telstra and DCITA have now been in discussions for a number of months on the development of a Price Equivalence Framework (PEF) associated with implementation Telstra's operational separation.

Telstra's Operational Separation Plan (OSP) which was accepted by the Minister on 23 June 2006, commits Telstra to having its PEF in place by 30 June 2006.

Telstra has released its Price Equivalence Framework Strategy, dated 30 June 2006.

This Strategy sets out how the PEF will apply to material price changes proposed by Telstra for Designated Services and relevant retail services, and generally describes the elements of the PEF.

A component of the PEF is an ACCC issued retail pricing protocol, which provides guidance on the ACCC's views as to Telstra pricing decision that are potentially anti-competitive in nature, and on the imputation tests that Telstra should conduct in seeking to demonstrate price equivalence under the operational separation framework. The ACCC published this retail pricing protocol on 30 August 2006.

- (4) The Operational Separation arrangements and Telstra's reporting obligations under them may assist the ACCC in its future regulatory and enforcement activities. However, the current development of the Operational Separation arrangements to apply to Telstra has not delayed the ACCC's exercise of its statutory responsibilities in respect of all matters currently before it.
- (5) Yes. In 2005-06 the ACCC was provided with \$26.2million (including \$1million capital) over six years to establish, implement and maintain an effective and robust competition regime in relation to the separate retail, wholesale and network business units of Telstra. Also, in March 2006, the group within the ACCC responsible for regulating the industry changed its name from Telecommunications to Communications. The shift reflects the broader advisory role performed by the group in relation to communications markets beyond those telecommunications markets caught by the specific provisions within the TPA and recognises the emergence of new technologies, which compete with, and complement, traditional communications services. In recognition of this increased role of the Group, staffing levels have also been increased.