

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 29, 30 & 31 May 2007

Question: bet 44 (ACCC)

Topic: Unconscionable Conduct Complaints

Hansard Page: E50

Senator MURRAY asked:

Senator MURRAY—I have called for the report in question because my memory is that the committee did want the broad area examined, but I think your remarks particularly about the unconscionable provisions are right. But the issue is broader than that and that is what I would like to refer to later. Just on the area of unconscionability, I was one of those who supported its introduction into the Trade Practices Act. I think it is a very good principle. Mr Cassidy will probably find it easiest to recall the detail, but my impression is that

unconscionable conduct is dealt with in two ways. One is where you take it up and you deal with it essentially on its merits and people go away and sort things out as they should, and that is a fast process. The other way is where the hard cases end up in the courts. Perhaps you could indicate to me how many unconscionable conduct complaints you have received, how many you have been able to deal with on their merits and have resolved and then how many have gone to court? Perhaps we should say in the last financial year or calendar year: which is easiest for you?

Mr Cassidy—Between, say, July last year and April, which I suppose is what you might call the financial year to date, we have recorded 145 contacts relating to unconscionable conduct in business. Of those, 126 were complaints and 19 were just straight inquiries. You are after the figure for complaints. We have had about 126, which represents only about half a per cent of the total number of matters that we have recorded in our database during that same period. This is probably going to be beyond me a bit right here and now. Translating that into what happened to those 126 is something I perhaps need to take on notice. If I do that, obviously, without going into details of particular ones I will be able to say how many of them went into our initial detailed investigation and how many of them are still there. I think I am reasonably right in saying that none of those would have actually found their way into court. At this stage, that is, if nothing else, a product of the time involved from when you get a complaint to when you end up getting into court.

Senator MURRAY—I would be happy to take those three items I asked you on notice. That is good. In answering that, could you add one more?

Mr Cassidy—Yes.

Senator MURRAY—If there is any particular area or category of business which dominates in that 126, I would be interested to know that.

Mr Cassidy—Yes. We will give you some idea what areas the 126 fall into.

Answer: Between 1 July 2006 and 31 May 2007 the ACCC recorded 147 complaints in relation to unconscionable conduct in business. 113 of these matters progressed to an initial investigation status. 16 initial investigations are still continuing, 70 have been discontinued, and 27 have progressed to an in depth investigation status. Two categories of industry received more than five complaints namely franchising (55) and retail tenancy (7).