

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 3-5 June 2008

Question: bet 114

Topic: Reappointment of Mr Samuel (ACCC)

Hansard Page: E72, E84

Senator Abetz asked:

Senator ABETZ—I have had placed in front of me an article from the *Australian* on 30 May. Minister, are you able to assist us as to the appointment/reappointment of Mr Samuel? I understand that is about to come up.

Senator Sherry—It is obviously a decision of government.

Senator ABETZ—But I gather it is coming up relatively soon.

Senator Sherry—I know the issue is under consideration, but that is as much as I know personally. I am happy to take the question on notice and refer it on to Minister Bowen.

...

Senator FIERRAVANTI-WELLS—Mr Samuel, I understand that your appointment is due to expire. Can you tell me when that is?

Mr Samuel—On 31 July.

Samuels or an appointment of his replacement is due to commence?

Senator Sherry—It is an appointment for government. Obviously, the minister, as I indicated earlier, is considering the matter. I do not think I have a brief on the precise timetable, formatting, et cetera, so I will have to take that on notice for you.

Senator FIERRAVANTI-WELLS—Could you also, if you do not mind, set out the criteria for the appointment for Mr Samuel's position.

Senator Sherry—I will take that on notice as well.

Senator FIERRAVANTI-WELLS—Also, could you tell me what other positions in the ACCC are due to come up for reappointment and when those terms are due to expire.

Senator Sherry—I will take those on notice for you.

Answer:

On 11 July 2008 the Government announced the reappointment of Graeme Samuel for a period of three years. The criteria for appointments to the ACCC including the Chairperson, Deputy Chairperson or member of the ACCC are set out in the *Trade Practices Act 1974* and the Conduct Code agreement – 11 April 1995.

Section 7 of the *Trade Practices Act 1974* states that:

7. Constitution of Commission

- (1) The Commission shall consist of a Chairperson and such number of other members as are from time to time appointed in accordance with this Act.
[subs (1) am Act 88 of 1995, s 40]

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(3) Before the Governor-General appoints a person as a member of the Commission or as Chairperson, the Minister must:

- (a) be satisfied that the person qualifies for the appointment because of the person's knowledge of, or experience in, industry, commerce, economics, law, public administration or consumer protection; and
- (b) consider whether the person has knowledge of, or experience in, small business matters; and
- (c) if there is at least one fully-participating jurisdiction – be satisfied that a majority of such jurisdictions support the appointment.

[Subs (3) am Act 106 of 1998, Sch2; subst Act 88 of 1995, s40; am Act 88 of 1995, s 83]

Section 14.4 of the Conduct Code agreement – 11 April 1995 states that:

(1) When the Commonwealth proposes that a vacancy in the office of Chairperson, Deputy Chairperson, member or associate member of the Commission be filled, it will send written notice to Parties that are fully-participating jurisdictions inviting suggestions as to suitable persons to fill the vacancy. The Commonwealth will allow those parties a period of 35 days from the date of which the notice was sent to make suggestions before sending a notice of the type referred to in subclause (2) or (3).

(2) The Commonwealth will send to the Parties that are fully-participating jurisdictions written notice of persons whom it desires to put forward to the Governor-General for appointment as Chairperson, Deputy Chairperson or member of the Commission.

(3) The Commonwealth will send to the Parties that are full-participating jurisdictions written notice of persons whom it desires to put forward to the Commonwealth Minister for appointment as associate members of the Commission.

(4) Within thirty-five days from the date on which the Commonwealth sends a notice of the type referred to in subclause (2) or (3), the Party to whom the Commonwealth sends a notice will notify the Commonwealth Minister in writing as to whether the Party supports the proposed appointment. If the Party does not notify the Commonwealth Minister in writing within that period, the Party will be taken to support the proposed appointment.

(5) The Commonwealth will not put forward to the Governor-General a person for appointment as a Chairperson, Deputy Chairperson or member of the Commission unless a majority of the fully-participating jurisdictions support, or pursuant to this clause, are taken to support the appointment.

(6) The Commonwealth will not put forward to the Commonwealth Minister a person for appointment as an associate member of the Commission unless a majority of the fully-participating jurisdictions support, or pursuant to this clause, are taken to support the appointment.