

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

1 June – 3 June 2010

Question: BET 222

Topic: Petrol

Hansard Page: Written

Senator XENOPHON asked:

1. Can the Commission indicate how much has been allocated to petrol monitoring in the coming 12 months?
2. Can the Commission indicate if section 50 dealing with mergers and acquisitions allows the Commission to review acquisitions of leases or greenfield sites?
3. Was the Commission ever notified that Caltex had decided not to proceed with the Mobil acquisition?

Answer:

1. The ACCC monitors and analyses a number of fuel markets, including the petrol, diesel and automotive LPG markets. The amount allocated for these functions for 2010–11 is \$2,594,515.
2. Section 50 prohibits acquisitions of assets of a person if the acquisition would have the effect, or be likely to have the effect of substantially lessening competition in a market. Section 4(4) provides that a reference to the acquisition of assets includes any legal or equitable interest in such assets.

The ACCC considers that the acquisition of a lease interest or a greenfield site can fall within the scope of section 50 and accordingly can be reviewed by the ACCC.

There can however be some exceptions. For example, the acquisition of an asset that is made in the ordinary course of business is exempt from section 50. The ACCC has examined this in the context of the acquisition of leases or greenfield sites in the supermarket industry, and considers that such acquisitions are not in the ordinary course of business.

3. Merger parties are not obligated to notify the ACCC of an acquisition, or of a decision not to proceed with a proposed acquisition. The ACCC's 2008 Merger Guidelines provides guidance on when merger parties should notify the ACCC of a merger.

The ACCC monitors a variety of sources, such as the media and announcements made to the Australian Stock Exchange (ASX), for information relating to mergers and acquisitions. In relation to the proposed acquisition of the retail assets of Mobil Oil Australia Pty Ltd by Caltex Australia Limited, on 29 April

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2010 Caltex issued an announcement to the ASX that it would not proceed with the transaction.