

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates

1 June – 3 June 2010

**Question: BET 70**

**Topic: Anti-Competitive Prices**

**Hansard Page: E93 (02/06/2010)**

**Senator JOYCE asked:**

**Senator JOYCE**—Has the commission undertaken any investigation into allegations of anticompetitive price discrimination?

**Mr Samuel**—Again, I would perhaps be interested to get your interpretation of what—

**Senator JOYCE**—anticompetitive price discrimination is?

**Mr Cassidy**—That comes under section 46, Senator. I do not know whether my colleagues have it, but I do not know whether I have the information to say what period. It was an open-ended question.

**Senator JOYCE**—Let us take—

**Mr Cassidy**—Section 46 has been there since 1974.

**Senator JOYCE**—Thank you very much. I will not go back that far. I won't even do that to you, Mr Cassidy! Let us take the last 12 months.

**Mr Cassidy**—I will have to take that on notice.

**Senator JOYCE**—What about the last three months?

**Mr Cassidy**—We would still have to take that on notice to see if we had the information.

**Answer:**

It is not uncommon for the ACCC to receive complaints from businesses with respect to the prices they receive or are charged for goods or services. These complaints often involve allegations of different prices received or charged in comparison with their competitors.

The application of different prices to different suppliers or customers is not in itself anticompetitive. This said, in certain circumstances, price discrimination could be used as a means of leveraging of market power for an anti-competitive purpose.

For example, a vertically integrated firm with upstream market power may be able to charge higher input prices to downstream competitors than its related downstream operator.

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates

1 June – 3 June 2010

Similarly, businesses with a strong market position may be able to price below cost for a sustained period in areas where they face new or existing competitors while maintaining higher prices in other areas.

Where these scenarios involve conduct for prescribed anti-competitive purposes, they may fall for consideration under the misuse of market power and predatory pricing provisions of the *Trade Practices Act 1974*.

Importantly, these prohibitions distinguish between conduct that might be engaged in for an anti-competitive purpose and conduct that is otherwise part of normal competitive markets.

The ACCC has undertaken investigations involving such allegations in the past 12 months. None of these matters have progressed to litigation.

See also the ACCC's response to BET 71.