

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

31 May – 2 June 2011

Question No: BET 208

Topic: Grocery Inquiry

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Senator Bushby asked:

Senator BUSHBY: I would appreciate it if you could take that on notice for me. It certainly sounded like that at the remedy end there was a potential there for the Competition Commission to resolve issues in ways that in Australia appear to have festered not through any fault of the ACCC, within certain areas of the community for a long time and in ways that could be quite sophisticated in the way that you could deal with those issues and solve them.

Mr Samuel: For example, you will note that in the grocery inquiry we made certain recommendations, as we did in the petrol inquiry; we made certain recommendations. But ultimately they are matters that have to be determined by parliament under our law. I thought that was the case in the UK, but we will take that on notice.

Mr Cassidy: If you look at our grocery inquiry—I was just thinking about it—one of the recommendations was that there should be a code of conduct. But that had to be legislated in the UK. It came into effect in February last year. Another recommendation was that there should be someone to enforce the code of conduct. The OFT tried to get the major retailers to do that on a voluntary basis. They could not get them to agree so there is now a draft exposure bill being released by the UK government to further a body to enforce that code.

Senator BUSHBY: The Competition Commission, as Mr Samuel mentioned, is a funny body. What I was hearing was very different to what I was used to.

Mr Cassidy: They both operate with the same power with respect to the reviews. The OFT can do it or the Competition Commission can do it. So they have the same head of power. I am suggesting to you that we will take it on notice.

Senator BUSHBY: Take it on notice for me.

Mr Cassidy: I do not know if it is quite independent of the need for government involvement in legislation that you might be seeking. But let us take it on notice.

Answer:

Similarly to the ACCC, the Office of Fair Trading (OFT) enforces competition law under the *Competition Act 1998*. If the OFT considers there are problems in a market, it can refer the matter to the Competition Commission (CC) for investigation.

As detailed in the response provided to Question on Notice BET 207, the CC has powers to order divestiture or other remedies it deems necessary. We understand that the OFT does not have such powers.