

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates, 2 November to 3 November 2005

Question: SBT 38

Topic: ACCC - TVN & Sky Channel

Hansard Page: Written

Senator Conroy asked:

- (a) Has the ACCC investigated the competition issues involved in the dispute between TVN and Sky Channel over racing broadcasts?
- (b) What action has the ACCC taken? Does the ACCC propose to intervene the dispute?
- (c) Is the ACCC concerned that TVN is not able to obtain access to the AUSTAR network and that consequently people in regional areas are unable to watch Victorian and Sydney races?
- (d) Does the ACCC believe that additional regulation/legislation is needed to deal with cases like this?

Answer:

- (a) The ACCC has conducted preliminary investigations into the potential competition law issues involved in the dispute between TVN and Sky Channel over racing broadcasts.
- (b) In order to assess the matter, the ACCC has been in contact with TVN, Optus and Austar.

A meeting was held between TVN and ACCC staff in mid-May 2005 to discuss TVN's concerns. However, on 20 May 2005 TVN advised the ACCC that it would institute proceedings against Sky Channel of its own initiative.

On 4 July 2005, the ACCC decided to discontinue its preliminary investigation into the TVN-Sky Channel matter for the following reasons:

- § The matter arose from a private contractual dispute between well informed and well financed companies.
- § As TVN had commenced litigation against Sky Channel alleging contravention of the *Trade Practices Act 1974*, it was considered that ACCC intervention would be unlikely to result in an earlier resolution of the matter.

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates, 2 November to 3 November 2005

- (c) The ACCC understands that the inability of TVN to access the AUSTAR network is in accordance with interlocutory orders made by the New South Wales Supreme Court. The ACCC also notes that, in some circumstances, people in regional areas have alternate means of watching Victorian and Sydney races. These means include Telstra BigPond broadband subscription and some public venues such as pubs, clubs and TAB agencies.
- (d) No.