

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 1 - 2 November 2006

Question: sbt 41 (ACCC)
Topic: Digital Set Top Box
Hansard Page: E61

Senator CONROY asked:

Just going back to the Foxtel undertaking, what are the individual component services that make up the digital set-top box service?

Mr Cosgrave—It is a bundle of services, as you have indicated. There are a range of services, including conditional access services. I am struggling, as you can tell, to answer this. I might have to take this on notice, but there is certainly a bundle of services.

Senator CONROY—How will the issue be progressed from here?

Mr Cosgrave—The issue is fundamentally one around which we have been having some discussions with Foxtel to ensure they are aware of the nature of our concern. The matter is largely in their hands as to whether they seek to restructure their undertaking.

Senator CONROY—Is legislative change required?

Mr Cosgrave—We would not have thought so.

Senator CONROY—The flavour of your release is that you would have liked to have approved the undertaking but felt unable to for technical legal reasons.

Answer:

The individual component services that make up Foxtel's digital set-top box service are:

- (a) Set Top Unit Services which are the provision of services for the reception and decryption of signals for a digital Subscription Television Service and a Related Service in customer premises by means of Conditional Access Customer Equipment and Customer Cabling;
- (b) Conditional Access Services which consists of:
 - (i) CA Services which are the services that allow a service provider to determine the entitlement of customers to receive particular signals for a digital Subscription Television Service and a Related Service through Conditional Access Customer Equipment and Customer Cabling;
 - (ii) Service Information Service which is the processing of information necessary to be received by Conditional Access Customer Equipment which permits the reception of a digital Subscription Television Service and a Related Service;

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- (iii) Smartcard Authorisation Verification Information Services which is the provision of information necessary to enable a service provider to verify which of its digital Subscription Television Services and Related Services are enabled on a Smartcard;
- (c) EPG Services which consists of the incorporation of data relating to programs transmitted on a service provider's digital Subscription Television Service into an electronic program guide; and
- (d) Modem Services which consist of services using a modem integrated with Conditional Access Customer Equipment which enable a customer to send to the provider of the content a reaction of the customer to that content.

Section 152CBD of the *Trade Practices Act 1974* specifies that the Commission must not accept the special access undertaking unless:

- § the Commission is satisfied that the terms and conditions set out in the undertaking are consistent with the standard access obligations (SAOs) under s.152AR; and
- § the Commission is satisfied that the terms and conditions set out in the undertaking are reasonable.

The Commission's draft view was that it could not accept Foxtel's special access undertaking because it could not be satisfied that the terms and conditions set out in the undertaking are consistent with the SAOs under s.152AR.