

SENATE STANDING COMMITTEE ON ECONOMICS QUESTION
(Supplementary Budget Estimates 20 October – 21 October)

Question: SBT 189

Topic: NBN and predatory pricing

Senator Xenophon asked:

Senator XENOPHON—I have a supplementary question and I am happy for it to be taken on notice because of time constraints. Will NBN Co. be subject to section 46 of the Trade Practices Act regarding abuses of market power or any other sections in respect of predatory pricing? There is a concern that, if there is a private fibre-optic network, they could be unfairly disadvantaged depending on the pricing regime of NBN Co. I am happy for that to be taken on notice, along with whether any application has been made for NBN Co. to be exempt from the provisions of the Trade Practices Act.

Mr Samuel—We will take that on notice.

Answer:

NBN Co is currently subject to section 46 (relating to both abuses of market power and predatory pricing), as well as other provisions relating to predatory pricing in Part XIB of the *Trade Practices Act 1974* (TPA).

The Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010 introduced into Parliament on 20 October 2010 proposes a limited exemption for NBN Co and Telstra in relation to certain arrangements and conduct that would otherwise breach Part IV or Part XIB of the TPA.

As at 22 November 2010 the ACCC has not received any application by NBN Co for an exemption from the provisions of the TPA.