

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

Question: SBT 200

Topic: SMARTS system/IP rights

Senator Abetz asked:

Senator ABETZ—Can you give us a breakdown for these first few months of the daily number of alerts. Because, if you tell me there is an average of 300, it might be that for the first month you had none and for the second month you had 600 on each day. So, if we can have the exact figures on that—on a daily basis just for the first two months—that would be very helpful. As I understand it, the software that is being used by ASIC is the SMARTS system. That was also used by ASX. Over a number of years, as I understand it, the ASX had invested its own intellectual property into finetuning the SMARTS system to ensure that it was highly attuned to the needs of monitoring the market. Is that a fair assessment?

Mr D'Aloisio—I do not know. You would have to ask ASX, I think. There is an issue of whether it invested or whether SMARTS invested and whether, in us acquiring the SMARTS system, we have the benefit of that.

Senator ABETZ—Thank you very much. You are leading me to exactly where I was going. I have been advised that ASIC deemed it inappropriate or not necessary to purchase the intellectual property from the ASX, is that correct?

Mr D'Aloisio—I am not sure. I will have to take that on notice. As I understand it—and perhaps my colleagues assist here—our contract is with SMARTS in terms of the software and the program it is needing. SMARTS is the industry leader in this area and certainly we have sought to get the full benefit of what is needed for us to be comfortable that we can run a system. That has meant some transfer of know-how through people and otherwise with ASX through the agreement in relation to that transfer.

Senator ABETZ—I would have thought you would be full bottle on this as to whether or not you had fully taken benefit of everything that ASX had been able to add to the SMARTS system over its many years of experience in this area.

Mr D'Aloisio—Let me check that and come back to you. We certainly formed the view that we had what was needed to do what I have outlined. How we acquired that is the issue you are getting to. Let me look at that and come back to you specifically about what we acquired from ASX and what we acquired from the software houses.

Senator ABETZ—Because the information I have been provided with is that ASIC did not purchase the intellectual property from the ASX, which had been built up over a number of years and provided calibrations from the SMARTS system to be able to monitor the market and detect irregular trading activity. I understand that ASIC decided that they would be able to set up their own calibrations and not get the benefit of the learnings and experience of the ASX. So that is the issue and I would have thought—

Mr D'Aloisio—Well that is new to me.

Senator ABETZ—What about Mr Tregillis?

Mr Tregillis—I think we would have to take that question on notice.

Answer:

ASIC conducted a global tender in December 2009 for the provision of an Integrated Market Surveillance System. In accordance with APS procurement procedures ASIC's procurement was conducted in accordance with ASIC Procurement policy and an Evaluation Plan which was coordinated by ASIC's Procurement division

ASX was not involved in any of the groups which tendered to provide ASIC with a Market Surveillance system and ASX's alerts and alert parameters were considered by ASX to be part of ASX's intellectual property. So the winning tenderer SMARTS Group did not have any rights to this property at the time SMARTS was installed. The SMARTS system operates in 40 other jurisdictions and the package included a comprehensive set of alerts

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We were, however able to gain the benefit of the learning and experience of ASX in this and other areas via the transfer of the relevant experienced ASX staff to ASIC. This was why a key focus in the transfer of supervision from ASX to ASIC was working with ASX to ensure a smooth transfer of some 23 staff to ASIC on 1 August 2010. These staff worked closely with other staff recruited from the market and ASIC.

The most significant factor in the effectiveness of the surveillance role is the skill and experience of the people carrying it out. ASIC has a team of 11 front line analysts comprising the Market Surveillance team, five of those have experience in this role with the ASX, four others have experience in investment banking broking and trading and two are graduate trainees. Accordingly, ASIC considers we have been able to draw on the experience built up over the years in ASX by means of the ASX staff that transferred to ASIC on 1 August 2010.

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