

**Senate Standing Committee on Education Employment and Workplace  
Relations**

**QUESTIONS ON NOTICE  
Supplementary Budget Estimates 2011-2012**

**Agency - Fair Work Ombudsman**

**DEEWR Question No. EW0744\_12**

**Senator Abetz asked on 19 October 2011 , Hansard page 49**

**Question**

**FWO - Ballina Case**

Senator ABETZ: But wait a minute; you are a model litigant. Why would you be asking for a higher penalty than the one that you honestly anticipated? These are some of the things that add to the perception of the Fair Work Ombudsman's office by the small business community and the small business sector, and that is why I, with respect, Mr Wilson, pursue some of these matters with a degree of vigour, because I get to hear these concerns expressed on a fairly regular basis. Can you explain how asking for a higher penalty than you honestly believe would be provided is in harmony with the requirement of the Fair Work Ombudsman being a model litigant?..... Ms Webster: As to whether or not a higher amount was put, we would have to take that on notice.

**Answer**

*The Fair Work Ombudsman provided the following response.*

The Fair Work Ombudsman did not request a specific monetary amount in penalties. A recommendation for the court to award penalties in the low to mid range was made by the Fair Work Ombudsman.

It is noted that although the Fair Work Ombudsman can make submissions, the Courts have absolute discretion in determining appropriate penalty.