

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

**Question No. 73**

**Senator Xenophon asked the following question at the hearing on 8 February 2010:**

Regarding the toilet paper reinvestigation:

Was there consideration in either decision given to the fact that the No. 4 domestic producer, Merino, went into liquidation in 2008?

**The answer to the honourable senator's question is as follows:**

*Original investigation*

In the original investigation, the applicants (Kimberly-Clark Australia Pty Limited (KCA) and SCA Hygiene Australasia Pty Ltd (SCA)) claimed that the Australian industry for toilet paper consisted of five members being the two applicants, ABC Tissue Products Pty Ltd (ABC), Merino Pty Ltd (Merino) and Encore Tissue (Aust) Pty Ltd (Encore). During the course of the investigation, Customs and Border Protection established that the Australian industry producing toilet paper comprised four (4) manufacturers—KCA, SCA, ABC and Encore.

Customs and Border Protection found that Merino went into voluntary administration in late 2007 and their business and assets were sold to Encore in early 2008. Based on available information, Customs and Border Protection was satisfied that Merino was no longer part of the Australian industry for the purpose of the investigation.

In assessing whether dumped imports of toilet paper caused material injury to the Australian industry, the applicants (KCA and SCA) who accounted for more than 60% of the market were considered to be representative of Australian industry.

*Reinvestigation*

In conducting a reinvestigation, Customs and Border Protection must have regard only to information and conclusions to which the Trade Measures Review Officer was permitted to have regard – that is, no new information can be considered.

In the reinvestigation, Customs and Border Protection reassessed the available information and affirmed the finding that the Australian industry producing like goods consists of four (4) manufacturers—KCA, SCA, ABC and Encore.

In the reinvestigation, Customs and Border Protection looked at domestic manufacturers representing approximately 90% of the market. In assessing whether dumped imports of toilet paper caused material injury to the Australian industry, the applicants (KCA and SCA) who accounted for more than 60% of the market were again taken to be representative of Australian industry. However, available information on the performance of ABC, which accounted for approximately 30% of the market) was also taken into consideration in concluding that injury to the Australian industry was caused by other factors (i.e. domestic competition) and dumped imports did not cause material injury to the Australian industry.

The particular circumstances of Encore and Merino, who accounted for approximately 5% of the market during the relevant period, were not considered.