

Makkinga, Elizabeth

From: Makkinga, Elizabeth
Sent: Tuesday, 20 March 2012 1:28 PM
To: Taylor, Kerry (Office of the CEO)
Cc: Ayres, Lisa Anne; Clancy, Sharon
Subject: Questions on Notice - Batch #1 [SEC=UNCLASSIFIED]
Attachments: 20120320 Director Clearance Coversheet - ABE QONs.DOC

Security Classification:
UNCLASSIFIED

Hi Kerry

Could you kindly print the attached coversheet and Doris documents below for Lisa Anne to clear?

There will be more QoN drafts for clearance coming through. I will send through asap.

Thanks, Liz

61	D12/36943	Murray Darling Basin Plan
212-218	D12/33321	Credit Cards
279	D12/33318	Printing of Documents
291-294	D12/33317	Travel Costs
327-330	D12/33315	Legal Costs
371-373	D12/33313	Executive Coaching and Leadership Training
398-400	D12/33312	Media Training
424-425	D12/33311	Paid Parental Leave
441-443	D12/33310	Media Subscriptions
474-482	D12/33309	Contractors #1
548-549	D12/33308	Discretionary Grants
628	D12/33305	Government Stationery Requirements
649-652	D12/33303	Media Monitoring
683-684	D12/33300	Reviews
785-789	D12/33297	Efficiency Dividend
889	D12/33295	Staffing – SES
1100-1109	D12/33286	Freedom of Information
1241	D12/34790	Component Pricing – Airline Tickets
1242-1243	D12/34789	Consumer Law – Repair Notices

1245	<u>D12/34787</u>	Financial Blockade – Mastercard
1246	<u>D12/34793</u>	Financial Services Blockade

Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE

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Additional Estimates 2012
15 – 17 February 2012

Question: AET 1245

Topic: Financial Blockade - MasterCard

Hansard Page: 15 Feb 2012, pg 128

Senator LUDLAM asked:

Senator LUDLAM: Interesting. Do I have any recourse to these companies, or MasterCard in particular, to lift that blockade? I would understand, for example, if this were a criminal entity. If they had been accused of organised crime offences or whatever, I would understand that. In this instance the organisation has not. It is a publishing organisation. It was given a Walkley Award last December. None of its staff have been accused or convicted of particular crimes. So what are my avenues as a consumer? What can I do to MasterCard or, better yet, what can you as the regulator do to them?

Mr Gregson: My response is not going to be very helpful for you. I probably do need to know a bit more detail. I am sorry, I have not come with those tonight but I would be happy to take any of that on notice, and try to assist you.

Answer:

Generally speaking, the ACCC considers matters raised with it under the provisions of the *Competition and Consumer Act 2010* (the CCA). The CCA is fundamentally concerned with preventing anti-competitive conduct and providing appropriate safeguards for consumers.

There are provisions of the CCA that prohibit action by corporations, either individually or in concert with others, which adversely impact on competition. Whether competition concerns arise will depend on the circumstances.

In this case, the ACCC has not seen any evidence or information to suggest collusive decision-making between card payment service providers.

Turning to any independent action by the card payment service providers, a key consideration in the circumstances raised by the question would be the purpose behind the decisions not to process payments.

The ACCC is aware of statements made to the media by a number of companies with headquarters overseas who stopped processing payments. The statements explain why they decided on that course of action. The statements also indicate concerns about compliance with their terms and conditions for service or for processing payments, including concerns about the facilitation of illegal conduct associated with Wikileaks.

The ACCC makes no assessment of the substance of those concerns. However the purpose described seems not to be anti-competitive. Without information to the contrary, it is unlikely that the action could be characterised as being undertaken for an anti-competitive * purpose and therefore is unlikely to raise concerns under the CCA.

10 LAA #1

only a small change, below

cleared - agree with your change
30/3

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The decisions to block payments to Wikileaks seem to have been made outside Australia. Nevertheless, the conduct involves businesses operating within Australia and affects Australian consumers. In these circumstances if the ACCC considered that there was an appropriate basis for investigating a contravention within our compliance and enforcement priorities we would do so.

In terms of avenues available to consumers to raise their concerns about this issue, concerned consumers may in the first instance contact their financial service provider.

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The ACCC makes no assessment of the substance of those concerns. However the purpose described seems not to be anti-competitive. This means that without information to the contrary, it is unlikely that the action could be characterised as being undertaken for an anticompetitive purpose and therefore unlikely to raise concerns under the CCA.

Branch
version -

Scott A's changes
in green.

Marcus B's
changes in
Red.

- Deleted: A
- Deleted: se
- Deleted: is often
- Deleted: In this case, the ACCC has not seen any evidence or information to suggest collusive decision making between card payment service providers.
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(O CAA) Branch version.

*no changes
from me*

Question: AET 1246

Topic: Financial Services Blockade

Hansard Page: 15 Feb 2012, pg 129

Senator LUDLAM asked:

Senator LUDLAM: I would appreciate that. On notice, could you provide us with a breakdown, consistent with your privacy obligations, of how many complaints you have received on this matter in its broadest extent.

Mr Gregson: We would be able to do that.

Answer:

The ACCC has received around 40 contacts in relation to the refusal of companies to process payments to Wikileaks, including the correspondence from Senator Brown as referred to by Senator Ludlam at the ACCC's appearance at Additional Estimates on 15 February 2012. The majority of these contacts were made in November 2011 and appear to have been made predominantly by consumers.

*cleared - no
changes'
se
20/3.*