

# RULE OF LAW

INSTITUTE OF AUSTRALIA

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media release

## **RoLIA releases second survey of economic regulators' estimates**

The Rule of Law Institute of Australia (RoLIA) today published its second survey of the economic regulators' Senate Estimates hearings. RoLIA, formerly known as the Rule of Law Association of Australia (RoLAA), is an independent not-for-profit association formed to advance the principles which underpin the rule of law in Australia.

RoLIA estimates surveys concentrate on the hearings of the following regulators:

- Australian Competition and Consumer Commission (ACCC)
- Australian Securities and Investments Commission (ASIC)
- Australian Prudential Regulation Authority (APRA)
- Australian Taxation Office (ATO)
- Fair Work Australia (FWA)

We have added the following regulators to the study:

- Australian Building and Construction Commission (ABCC)
- Australian Crime Commission (ACC)

The report provides graphs representing time allocations for scrutiny; numbers of questions answered and taken on notice; use and value of opening statements; and which senators take an interest in the conduct of the agencies. RoLIA invites readers to make their own judgments on the graphs so we are providing only a limited commentary.

RoLIA has included interesting segments of the transcripts that are relevant to the rule of law, including those on:

- Supremacy of parliament;
- Separation of powers;
- Meaningful annual reporting to parliament; and
- Use of coercive powers by regulators.

RoLIA Chief Executive Officer Richard Gilbert describes the three crucial problems with the estimates that have been exposed in this report:

1. “Regulators in general do not answer questions on notice before the due date, in some cases delaying answers by months after the due date. It appears that based on the two surveys RoLIA has done to date the regulators seem to observe a pattern of lateness in answering questions. A regulator who had required information from a member of the public would not allow the same liberty, especially considering failing to comply with an information request can result in fines or penal outcomes. It is crucial that Committee process is respected and the information is submitted on time.
2. The Department of Prime Minister and Cabinet has not made it a requirement in the ‘Guidance on Caretaker Conventions’ that questions taken on notice in estimates hearings must still be answered as per the usual process. This should be remedied as soon as possible to ensure that it does not become an excuse for delaying answers during an election period.
3. Senate Committees do not involve the public, who have no chance to participate and question the regulators on issues that affect members of the public every day. RoLIA recommends that the Senate consider adopting new procedures which permit, albeit limited in the first instance, the public to make submissions for the estimates and to raise legitimate questions on the expenditure of public moneys.”

For a copy of the full report please go to [www.ruleoflaw.org.au](http://www.ruleoflaw.org.au).

For further information please contact RoLIA CEO Richard Gilbert on (02) 9251 8000.