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SENATE

STANDING COMMITTEE ON ENVIRONMENT,
COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE
ARTS

Reference: Australia's Indigenous visual arts and craft sector

MONDAY, 19 FEBRUARY 2007

KUNUNURRA

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**SENATE STANDING COMMITTEE ON
ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS**

Monday, 19 February 2007

Members: Senator Eggleston (*Chair*), Senator Bartlett (*Deputy Chair*), Senators Lundy, Ian Macdonald, Parry, Ronaldson, Webber and Wortley

Substitute members: Senator Crossin for Senator Lundy

Participating members: Senators Adams, Allison, Bernardi, Boswell, Brandis, Bob Brown, George Campbell, Carr, Chapman, Conroy, Crossin, Chris Evans, Faulkner, Ferguson, Ferris, Fielding, Fierravanti-Wells, Forshaw, Heffernan, Hogg, Humphries, Joyce, Lightfoot, Ludwig, Marshall, Mason, McGauran, McLucas, Milne, Moore, Nash, Nettle, O'Brien, Payne, Robert Ray, Scullion, Siewert, Stott Despoja, Watson and Wong

Senators in attendance: Senators Ian Macdonald, Moore, Parry and Siewert

Terms of reference for the inquiry:

To inquire into and report on:

Australia's Indigenous visual arts and craft sector, with particular reference to:

- a. the current size and scale of Australia's Indigenous visual arts and craft sector;
- b. the economic, social and cultural benefits of the sector;
- c. the overall financial, cultural and artistic sustainability of the sector;
- d. the current and likely future priority infrastructure needs of the sector;
- e. opportunities for strategies and mechanisms that the sector could adopt to improve its practices, capacity and sustainability, including to deal with unscrupulous or unethical conduct;
- f. opportunities for existing government support programs for Indigenous visual arts and crafts to be more effectively targeted to improve the sector's capacity and future sustainability; and
- g. future opportunities for further growth of Australia's Indigenous visual arts and craft sector, including through further developing international markets.

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Committee met at 10.00 am

CHAIR (Senator Ian Macdonald)—I declare open this public hearing of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts in its inquiry into the Australian Indigenous visual arts and crafts sector. Today the committee is having its second public hearing. Further hearings are going to be held in Darwin, in Alice Springs and in Sydney. Our proceedings will follow the program circulated. They are public proceedings. The committee may also agree to a request to hear evidence in camera or may determine that certain evidence be heard in camera, so it is possible for you to ask for that.

I remind all witnesses that evidence given to this committee is protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee. If a witness objects to answering a question, the witness should state the ground on which the objection is to be taken, and the committee will determine whether or not it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, the witness may request that the answer be given in camera. Such a request may of course also be made at any other time. I welcome everyone here today.

[10.02 am]

LINKLATER, Mrs Pamela Adele, Private capacity

CHAIR—I welcome Mrs Pamela Linklater of Our Land Gallery. Thank you very much for hosting us at your place 10 minutes ago. I hope our presence here is not taking you from more productive pursuits. We do appreciate you coming along and adding to our knowledge of the subject. Would you like to make an opening statement before the committee asks you some questions?

Mrs Linklater—I just want to thank you very much for inviting me along and giving me the opportunity to speak today. I sincerely hope that many positive things come out of this very important inquiry.

CHAIR—We asked you a lot of questions at your place, some of which we will not repeat here and some of which we will so that they can be recorded. But I emphasise again: if there are things that you would rather not say publicly that you think might assist the committee, we are happy to consider going into camera. Could you explain to us, as you did before, how your operation operates.

Mrs Linklater—Certainly. I run retail premises in Kununurra. It is a family business, consisting of my son, my daughter and me. I thoroughly enjoy being part of the industry. I enjoy the art, the artists and the clients. I purchase stock directly from independent artists, arts centres, respected agents and galleries interstate.

I will touch on a couple of the things you asked me before. I have never remunerated an artist in any currency except money, and only directly to that artist. Being situated in the East Kimberley, I prefer to offer far more art indicative of the area, which is ochre medium. The area I represent includes the Kulumburu and Oombulgurri to the north and as far as Halls Creek to the south. That is what I concentrate on. I retail for eight months of the year seven days a week and, for the remaining months, six days a week—we have a considerable tourism industry here. For the four remaining months there is not a lot of through traffic, as you can imagine. The artists either paint in the gallery, which I prefer—I can take progressive images of their work, which is interesting for clients.

My method of operation is that I have never approached an artist to paint for me. I have never consigned a work from an artist, and never will. I have never once asked an artist to paint only for me—in fact, the opposite. On occasions I have had people say, ‘I only want to paint for you’, and I say: ‘Please, no. I cannot afford to take all your art and buy it, so please paint for your art centre and whoever is going to pay you the money that you know you are worth.’

The Aboriginal people in the Kimberley have had a close association with white people for many years. They know their worth as an artist; they know their worth as a person. I have no problem in saying that they are very intelligent, smart people. There is no such thing as a cheap, good painting or a free lunch, so if anyone offers any artist that I know, particularly in this area—I know this area; I do not know the other areas—money which is below their perceived

worth, that gallery or agent will never keep that artist. It just will not happen. This does not imply that all art is at an extremely high price. There is a place in the market for all levels of art and all levels of artists, and what one can retail their art for. I feel I have a very good understanding with my artists—I should not say my artists; I should say the artists with whom I deal: no-one owns anybody. I can honestly say that I have a very good relationship with the artists with whom I deal.

CHAIR—This may be commercial-in-confidence, but I did discuss with you what, for want of a better word, your mark-up is. Are you happy to answer that on the record?

Mrs Linklater—Absolutely. I try to keep in line with what the art centres remunerate their artists. Sometimes I am over if it is a particularly good piece. I do not work along the lines that the art centres do. They have a strict code laid down. They will group an artist as group 1, 2 or 3, depending on their standing and then the size of the work. I will talk to an artist because the best artist can do a shocker at times and the worst artist can do a ripper. Normally it is a matter of them bringing the art in and I have known them long enough that I know exactly what they want for it. If it is better, I will pay them more. If it is not as good, I will give them the chance of taking it away, fixing it up, bringing it back or taking a small drop because I cannot offer that to a client at the same price as a better piece of art from that same artist. Again, these people are very intelligent and they understand that. But, by and large, I keep in line with what the art centres pay their artists, definitely.

CHAIR—For someone—as will be very obvious—who really does not have any background or understanding of any sort of art, how do you fix a value to a painting? All of what I saw in your place and elsewhere was magnificent, but how do you put different values on it?

Mrs Linklater—The marketplace sets the price for the artist. I showed you a piece behind my desk by an artist named Jock Mosquito. He well knows his prices because he had an exhibition last year. He saw the retail price I had paid him for that work. I sent it down to Perth. He visited Perth for the opening and was very well looked after down there. They took him to the football et cetera. He has had no education but in numeracy he is very good. He could see the prices; he was very pleased with what I had already paid him. He is now painting for another exhibition and he is being paid along those lines. The artists know what they get from the arts centre, they know what they get from me and they know that it is line with what is right for them. For instance, he is going to get more than an unknown artist or an emerging artist. And it is the same as in white art. There are emerging artists, there are mid-career artists and there are established artists, and all of them have a set price and that is a market price. I must say that the market price is set by the larger galleries in the larger capital cities. I cannot retail here for what they get; it just does not happen. Basically, I work from the artist's payment and then what I get over it is my good luck or bad luck and it is never anything like a capital city price. It just does not happen in a rural area.

CHAIR—Do you market to the tourists coming here locally or do you market to the galleries in the east and overseas?

Mrs Linklater—For the lower end—and I am not saying that in a derogatory way at all because some beautiful pieces come from unknown artists—I mark that to a straight retail because that is not going to go to a capital city gallery. The others I mark perhaps a little lower

than the capital city galleries do, knowing that I am not going to get that price through my shop here. The art centres send out to galleries for exhibitions but because I pay for the art I cannot afford to do that. I need to wholesale out to capital city galleries that, hopefully, will pay. Again, I do not intend that to sound bitter; it is merely a fact of life. They have extremely high overheads. That is not to say that I do not have high overheads, because I do. They do mount exhibitions and they do indeed pay, but they pay a wholesale rate.

CHAIR—You were telling us that you do not sell on commission or consignment, but you buy from the artist and pay them as they give you the painting?

Mrs Linklater—Yes.

CHAIR—But when you sell to the galleries you do so on consignment. You wait until they sell before you get your money back.

Mrs Linklater—Exactly. This is why I have to avidly retail in Kununurra in the tourist season.

Senator MOORE—Mrs Linklater, I have a couple of questions. You did mention the internet process. I know that your gallery is up with a very good website. At the moment, about what percentage of your sales and interest would you attract from the internet?

Mrs Linklater—Interest is high; conversion of sales is low. Anyone that has an internet site will tell you that. Sometimes it will be an order straight up, which is wonderful, because that is retail and that is great, really good—and remember, every painting that I sell of an artist I then have more from that artist. But very often people will come through and inquire about a particular artist they have seen on the website and say, ‘Do you have anything in this style, smaller, bigger, different colour, et cetera?’—and the inquiry could be from Switzerland. We then start up a very close relationship with these people via email, saying, ‘Yes, we have. Here are the jpg. images,’ which are normally better than what you see on the website because you can send very high resolution jpg. images, and collectors want this. So we start up this interaction. Whilst they may not buy off the website, the conversion afterwards is probably better through that contact. That again is work oriented, very much so. It is time consuming sending jpg. images. And we offer a full money-back guarantee. If we send something overseas and it is not as expected for any reason, then we refund the money. Touch wood, that does not happen very often because we go to a lot of trouble to send very clear images.

Senator MOORE—Is the internet a growing part of the business?

Mrs Linklater—Yes, because of the incredible interest in overseas sales. It is at this time of the year that the internet kicks in, and I always say to the overseas people that it is because they are snowbound and icebound and they are looking at the computer. Whereas our busy time here is when they have got their summer over there and that is when they go away on holidays. But right now is a very good time for internet inquiries.

Senator MOORE—And then the translation of that to business is part of the marketing stream—is that right?

Mrs Linklater—Yes. I try to have an ongoing relationship with these people. I do not send out newsletters, saying, ‘I’ve got this, that and the other.’ I just merely try to have as intimate a relationship via email as I can with these people. Very many people that we have sold to have eventually come to the Kimberley and, while it is not particularly to see me, they always drop in and see the art in the area, which is good.

Senator MOORE—I have two questions, and I know Senator Parry has got a couple as well—we are always chasing our tails on these committees. One is to have a look at the inter-relationship of the various people involved in the industry in a city like Kununurra.

Mrs Linklater—Very important.

Senator MOORE—We drop in, and already this morning we have gone to a number of places. We have talked to people. We have seen fantastic art. How do the different levels and the people involved in this industry work together at the local level?

Mrs Linklater—In this particular area very well. We have an arts centre in Kununurra, as you would know—Waringarri. It is a government funded centre. I feel there is no conflict of interest between this centre and my business. We represent different artists, which is good. It gives people a very good selection. It is a good spread of art for clients in Kununurra. There is another privately-owned gallery the same as mine. Again, we have different artists and a different way of presenting our art. I constantly refer people to Waringarri. Some people are far more comfortable buying from government funded arts centres. They like to do that. They are a little more out of town than I am so I refer them to both Waringarri and to Red Rock, the other privately-owned outlet, because it is good for the client and good for the town. I have read Waringarri’s submission and they are obviously very successful there, according to their financials. I am confident that arts centres and private business can sit well together and complement one another. It is a multi-tiered relationship, which is the New Age way of saying, ‘We’ve all got to work together,’ and we should for the betterment of art and the artists.

Just harking back to the financials, I had a look at Waringarri’s submission and what they had paid their artists and, because I separate out in my books what I pay the artists in the area here and then further south, which is not our area, going towards Alice Springs, I noted that their contribution and my contribution was a goodly sum injected into this area. It is a known fact that Aboriginal people spend their money in the area in which they earn it. White people go to Darwin, ex-Kununurra, to buy vehicles, clothing, et cetera. It gives me a great deal of pleasure to see Aboriginal people with their painting money or whatever else they earn buying fridges and freezers, vehicles, clothes for their children and clothes for themselves in this area. It contributes to the area.

Senator MOORE—And what about employment? Mrs Linklater, you have told us that it is a family business. So you have yourself, your daughter and your son—

Mrs Linklater—That is right.

Senator MOORE—Do you have any full-time or part-time Indigenous people working in the gallery?

Mrs Linklater—I have had one, as a packer. He was exceptional. He was also a painter, but not a prolific painter. He is a member of a very large family here. He worked for me for some months. Because of family reasons, he left. But the quality of his work—as far as packaging and stretching of canvasses was concerned, he knew that that was the only position that I can offer anyone—was exceptionally good. That position, if it becomes available again, I will advertise it, and I will not give any more credence to an Aboriginal person wanting that than I would to a black, white or brindle person. I do not see people in that way. I see them as how capable and reliable they are because, in the height of the season, that is a very integral part of my business. I pay a very good remuneration for it and it is a very good wage, because it is a very responsible position. The last thing that one wants to do with ochre art is have damage, so it is a really responsible position.

Senator MOORE—Thank you.

Senator PARRY—You mentioned a moment ago, on a couple of occasions, the financials and your awareness of the financials of other art centres. If your business successful? Is it a profitable business?

Mrs Linklater—I have been in business since 2002. The last financial year was the first time I showed a profit. Prior to that, in order to keep buying the art that was not selling quickly—although I had been collecting art since I was 15, not Aboriginal art, just art in general but Aboriginal art since the 1990s; I have been retailing since early 2002—I had to sell my car and my touring caravan, which my late husband and I owned, and I also borrowed \$30,000 from an elderly relative, who is my only relative other than my two children, to keep my business afloat.

Senator PARRY—Do you think there are too many galleries or centres?

Mrs Linklater—Not in Kununurra.

Senator PARRY—What about WA in general? Can you expand further?

Mrs Linklater—I went to Perth recently. I very rarely go anywhere, so I am giving you a perspective from a very isolated point of view.

Senator PARRY—That is fine.

Mrs Linklater—I went to Darwin last year for the AGM of Art Trader, of which I am a member, and for the Telstra awards. Just before Christmas I went to Perth. It was a Christmas present from my children to see Elton John, which was great. I went down to Margaret River and I did go to the galleries in Perth—very well received. The only one that I had had any association with was Japingka but an agent, who I had known, had just recently opened a gallery. I must admit I saw very little quality Aboriginal art in Perth. My son and daughter have travelled a lot more and they went to Alice Springs recently. It is an absolutely different scenario down there. But I think the number of people then coming through Alice Springs and Broome was far more than the number who come here. So I guess it is horses for courses and numbers. I think everyone here sits together very well with one art centre and two private outlets. I do not think that is too many.

Senator PARRY—Do you think there is genuine, healthy competition?

Mrs Linklater—Here?

Senator PARRY—Yes.

Mrs Linklater—I would like to think so. I am very happy—

Senator PARRY—As far as you are aware it is, or do you have a reservation about that?

Mrs Linklater—One never knows in this business.

Senator PARRY—But you would be aware of your competitors' prices, and the way they remunerate their artists?

Mrs Linklater—I am aware of Waringarri because they have stated their financials.

Senator PARRY—But not the other two?

Mrs Linklater—I have no interest in what Red Rock remunerate their artists. It is none of my business. My late husband always said every second you take worrying about somebody else's business or trying to bring them down is a second you take away from your own, which is a very well-known adage.

Senator PARRY—True. It is a good maxim.

Mrs Linklater—I do not do that. I am happy with what I do. My conscience is clear with what I do. My artists are looked after very well. The Waringarri submission said that an arts centre was like an umbrella—a safety net—for people to come to, not just for painting. I offer to put electricity on or arrange transport not just for my artists but for some of their families—the local visitor centre always says that I am their best agent—because, if they are stuck somewhere, one of the family will phone me and I will get them back. I then worry about that, and sometimes I do not get remunerated for it.

Senator PARRY—Does this extended service move into things like assisting and managing their personal financial arrangements?

Mrs Linklater—That is none of my business.

Senator PARRY—You do not engage in that at all?

Mrs Linklater—That is none of my business. The only time I would say that I do is when someone comes to me and says, 'What's this?' and I look and I say, 'Your electricity has been cut off.' I then have it put back on again. I never say, 'That was very silly,' because they cannot read. You would have to be an airline pilot to fill out some of these forms that these people have to fill out, particularly Homes West.

Senator PARRY—You are just getting a little bit inconsistent with what you said earlier. You believe that there is a good level of knowledge amongst the artists about what they are worth.

Mrs Linklater—Absolutely, but it does not mean to say they can read or write.

Senator PARRY—Do they understand financially what their product is worth on the open market?

Mrs Linklater—Absolutely, but that is where it finishes. Once they are paid for it, what they do with that money is different from what we would do. I was talking to my son about this very thing yesterday, and he said, ‘If I won the lottery and one of my friends rang and said, “I want \$10,000,” I would say, ‘hold on a minute.’ Whereas in the Aboriginal culture, as you would know, the payment is made to an artist, but it does not stay in that artist’s pocket. They are very family oriented. It is in their culture, some more so than others. I am not saying that they use their money unwisely; they share it.

Senator PARRY—This leads into the next question. Do you think that there is exploitation in any way, shape or form here? Or are you aware of any other parts of Australia where artists, because of their lack of wanting to build up a financial nest egg, they just want ready cash or handy cash? Do you think exploitation is taking place?

Mrs Linklater—Not in this area.

Senator PARRY—When you say ‘this area,’ do you mean only Kununurra?

Mrs Linklater—Kununurra and Halls Creek. I will cite Lilly Karadada in Kalumburu. She is 87. She has been one of the most successful artists in our area. She signs with a cross, but I always tell her not to sign because it is obviously her work. Nobody does work like Lilly. With her painting money she has put her children through school, some of them through high school, and some of them through university—and so has Madigan Thomas. She has done it alone without an arts centre. That lady has a very canny knowledge of her worth and she does, with her money what she—

Senator PARRY—But she would not be typical, though, would she? Would she be a typical Aboriginal artist?

Mrs Linklater—In the main, the people whom I deal with, indeed. I have never had somebody come in and say, ‘I have done a quick couple of paintings, Pam, I only want \$100 for these’.

Senator PARRY—Would you be surprised to hear that we have heard evidence to date which indicates that there is some form of exploitation, and that this is a part of Australia where exploitation is deemed to be active?

Mrs Linklater—In the Kimberley area?

Senator PARRY—Yes, in the Kimberley area.

Mrs Linklater—I would be very surprised.

Senator PARRY—Have you ever witnessed or heard about it? Has anyone passed that information on to you at any stage?

Mrs Linklater—Never. I know that there is a market with cab drivers, hotel accommodation managers et cetera, where the artist is paid in kind for services. But I would think that would be a very small market here because the artists are paid by their art centre, by me and Red Rock. As I see it, in the main the artists would not need to do that. When you say that you have heard, I read and I hear things about other parts of the country. I would really like to see these things not remain allegations but be brought out in the open so that they can be addressed and either proved correct or terminally put to bed.

Senator PARRY—Well, we certainly share that view with you.

Mrs Linklater—Absolutely, because otherwise they vaporise, and vapour leaves a trail. So they must be addressed. I was reading some of the submissions and I am pretty sure it was in one of the submissions—something that brought me to my knees on Saturday afternoon. This is not in our area, but I am sure I read it—I was so horrified I sort of had a mental blank. Someone had written to say that in Darwin there were people actually locked up, not being let out of a particular place until they had painted so many paintings and having to ask to go to the toilet. I went onto another window on my computer and then I sat back—and I am nervous now and I was shaking then—and I thought: hang on a minute, this is deprivatation of liberty. If I had an inkling that that was going on, if I was that person making that allegation, I would not be writing to a Senate committee. I would not be writing to a journalist or a paper. I would be hitting the phone, ringing Crime Stoppers and saying, ‘Look, my name is Pam Linklater. I do not want to get sued over this; however I feel that it needs investigation by the police.’ Surely, isn’t that the way a normal, average Australian person would react?

Senator PARRY—You would think so. Just a final question in the interests of time, Mr Chair. I just want to clearly get it on the record: you are not aware directly or indirectly, apart from what you have just indicated, of any practice that is exploiting Aboriginal artists in this area?

Mrs Linklater—I am not. But if you have knowledge of those allegations I would be more than happy to discuss them with you at this forum.

Senator PARRY—Thank you.

Senator MOORE—Mrs Linklater, I always ask in inquiries, when someone has gone to the trouble of coming to us, what they hope is achieved by the work that the inquiry is doing. So you have impressed us by the fact that you have read the submissions. That is always refreshing when people have taken that time. You have read the terms of reference. As someone in the industry, what do you hope this inquiry achieves?

Mrs Linklater—I hope, if there are problems, they are recognised and problem solved. I hope there are positive things coming out of this inquiry for the good of the artists and their families, for the good of the art industry and the economy of Australia—that is a fair statement—and for the good of everyone in the industry, be it an arts centre, a private person, whoever. I see this

industry growing. It is an important one. It has given Aboriginal people an unbelievable sense of achievement.

I showed you in my gallery a painting by an 11-year-old. That is what it is all about. One of our great artists here, who has now deceased, once said to me, 'Pam, the only way our culture will survive,'—because he knew it would be diluted through marriage; he was a very wise man—'is through our dancing, our singing and the stories of our paintings.' He knew the young people would have different styles but they would always have the stories, and that is how I see it. So I am positive.

CHAIR—Three very quick questions: approximately what percentage of your business would be selling locally and what would be selling to the eastern states or overseas?

Mrs Linklater—Sixty-five per cent locally.

CHAIR—So anyone you buy a painting from would be able to walk into your gallery and see the price on the—

Mrs Linklater—Indeed, they do.

CHAIR—And have you ever had any of them come to you and say, 'Hey, you didn't give me anything like that?'

Mrs Linklater—Never once, and that is why I put the prices on.

CHAIR—There have been some submissions made to us which talk about having a government-backed certificate—I forget what it is called—with a photo and who it was bought from, when it was bought, what price it was bought for. Have you heard of that? This is a big subject—

Mrs Linklater—Yes, I have heard many suggestions.

CHAIR—Would it work?

Mrs Linklater—I think it would be a huge cost to the government and very hard to administer.

CHAIR—A certificate of authenticity, it is called.

Mrs Linklater—This morning there was a lady in my gallery buying art. It took my daughter 15 minutes to chat socially with her. She is up here on drug and rehabilitation—I just met her outside. With those paintings she will get my gallery's certificate of authenticity which says that it is an authentic painting from the stated artist, with the date of purchase and the catalogue number. If the artist paints in-house, which I prefer, the buyer is given sheets of working in-house images and always a photo of the artist with the painting, signed, catalogued et cetera. That in itself is my certificate of authenticity.

CHAIR—I should not have raised this because it is a very complex subject, but can I interpret from that that you think it is not really necessary and if it were government controlled it would be very bureaucratic and red-tapey?

Mrs Linklater—No, I do not see a problem. I see it as an incredible undertaking and an extremely expensive undertaking. I read in one of the submissions that it would probably cause fraudulent certificates of authenticity. So it is going round about in circles.

CHAIR—I have another very quick question—and we could talk about this for hours too, but I want to get an impression from you. There is some talk about a resale commission—

Mrs Linklater—Yes, a retail royal commission.

CHAIR—Is it a good or bad idea, or improbable or impractical? What is your view?

Mrs Linklater—If it is for Aboriginal people it must be for white eyes as well. I harp back to other industries such as the second-hand or fine furniture industry. My grandfather would have paid nothing for a cedar chest of drawers but every time that chest goes to sale am I going to say, ‘Hey, I want a piece of the action?’ I do not think it is necessary. If an artist or a sculptor or anyone else is initially remunerated fairly, then it is the end of the transaction. I do not know why the matter of royalties was ever brought up. Can you tell me if it is in place anywhere else in the world?

CHAIR—I think it was Van Gogh complaining that he only got two and six pence for his painting—

Mrs Linklater—No, he did not complain; he was dead by then. He cut off his ear and died!

CHAIR—I make light of a serious subject. It is a big subject and I am sorry to ask you for your advice but I just wanted to get your feel about it.

Mrs Linklater—My one feeling is that after that artist is deceased every time the painting is resold and a royalty is paid to whom does it go? Would it go to his or her estate, or which part of the family is going to claim it?

CHAIR—I used to be a lawyer. It sounds like a great industry for my profession.

Senator MOORE—You know that the inquiry is still going. If there is anything that you want us to know between now and when we report please let us know. It is an interactive process.

Mrs Linklater—Thank you.

Senator MOORE—If there is something you think of tomorrow or when you leave the place, which is when I get my best ideas—after I have finished—send us an email.

Mrs Linklater—By this same token, if there is anything in the ensuring interviews which you have that you think I can be of any assistance with, I would be more than happy to do that.

CHAIR—Thank you very much, Mrs Linklater. I appreciate your time.

[10.39 am]

CUMMINS, Ms Cathy, Manager, Waringarri Aboriginal Arts

GRIFFITHS, Mr Kim, Employee and Committee Member, Waringarri Aboriginal Arts

CHAIR—Thank you very much for coming along and thank you for showing us around earlier; we very much appreciate that.

Ms Cummins—It is a pleasure.

CHAIR—I will not go through procedural matters in detail. I will briefly mention that this is a public hearing and anyone can come and listen to it, but if there is any evidence that you would like to give in camera please ask and we will certainly consider that. This is a hearing of the Senate, so bear in mind that what is said here is protected by parliamentary privilege. We have your written submission, for which I thank you. I invite you to speak briefly to your submission and let us know if there are any alterations or amendments to it. Otherwise we will go ahead and start asking the questions.

Ms Cummins—Go ahead and start asking the questions.

CHAIR—We have had the benefit of some discussions with you at the gallery. Just to put some of that on record, could you briefly explain how your gallery works, how you are funded and how you pay your artists? In your case, you were saying it is not just an art gallery, it is a whole cultural—

Ms Cummins—Yes, which is what most art centres are. They tend to fulfil a lot of government support obligations really. The only thing I would like to say is that the figures that I put in the submission as to what we had turned over were with me as coordinator at the time and three Indigenous staff. We now have a part-time non-Indigenous person and six Indigenous workers, with a seventh position pending. We have actually grown in the last six months, so we hope that does better for sales.

We are currently receiving funding from DCITA for arts operational through the NACIS program. That has been between \$90,000 and \$100,000 over the last four years. It contributes solely to my wage; our insurances, which you can imagine are very high; and our bookkeeping costs, which again are very high. Everything else in the centre is self-funded, so we pretty much operate on \$200,000 to \$250,000. We do get the CDEP component of wages from Waringarri Aboriginal Corporation's CDEP scheme. For six workers, that is roughly about \$80,000, but the rest of it the art centre supports.

There are three objectives in the constitution for the arts centre. One is the promotion of art and artists so that we have an economic base for the arts centre and for the individual artists that support the centre. The second objective is that we employ and train local Miriwoong people, of which Kim is one, and that is why he is here with me today. The third objective is to promote and support culture. They are our key constitutional objectives.

I think I started in July 2002 and, at that point in time, the arts centre had almost a \$30,000 deficit. Over the last four years—and I have to say with some incredibly hard work by the artists involved—the centre has actually managed to establish some stability.

While providing income is obviously a really important part of what art centres do, because that builds an economic base for the community and all the individual artists involved, its spin-offs, of course, are their families. When grandmothers can sell paintings and buy school clothes and books for their kids, you realise how important that economic base is. That we can employ six young local Indigenous people is absolutely fantastic and we hope that over the next 12 to 18 months the arts centre can actually support the full wages of two of those employees.

The CDEP reform has put us in a slightly difficult situation. I am pulling my hair out at the moment in working out how we are going to keep the other four staff. The issue there is that it takes longer than a year to train an employee. The committee have given me the job of training the current employees to management level. I am working with Kim. Kim manages the workshop. He is responsible for all the canvas stretching; he is responsible for making sure we have our raw materials; he is responsible for making sure that the supplies and ordering are done; very soon he will be responsible for producing the frames as well, for which, as I explained earlier, we were lucky to get some support funding. We have a young woman working in the gallery and we are currently training her to be an assistant manager. It is going to take longer than a year. That is the biggest issue that we have had at the arts centre. The community are adamant that we employ Miriwoong people. They are very hesitant about employing from outside. Our non-Indigenous assistant is there specifically to support marketing and to mentor and train. We are all very aware that our role there is to bring up the next generation. That is the key thing.

CHAIR—The changes to the CDEP constricted it to one year—is that the change?

Ms Cummins—The issues for Waringarri Aboriginal Arts is that we are linked to a town. We have been lucky enough to get 12 months leniency and then it is cut off. If you are in a remote community it will be ongoing for a little bit longer. The rule with towns is that apparently there is employment in towns. Kununurra has a number of training authorities that work really hard with young people to get them employment, but perhaps the most important thing that an arts centre can offer is employment within a cultural context and employment in a self-managed enterprise.

CHAIR—Can I clarify that: you will get 12 months for every new employee, but you are saying that next year you can apply for another 12 months for a new employee?

Ms Cummins—From 1 July 2007, we will be able to have CDEP contribution for some of those six to seven positions.

CHAIR—But for one year only?

Ms Cummins—For one year only and then it is finished. I am currently looking at alternative ways of supporting Waringarri workers so that they have sufficient and appropriate training.

CHAIR—Are you aware of any other government program that would provide similar financial support for training people for the two years?

Ms Cummins—There is a step program that we are looking into at the moment and there is a little bit of support available from Workbase, which is linked to Centrelink, but only for the first six months. The issue that we have is that there is no appropriate accredited training in arts centres for Indigenous employees, managers or anybody for that matter. There is an arts administration course offered through TAFE. It is not offered here in the Kimberley and it is not totally relevant.

CHAIR—I should know the answers to a lot of these, but I do not, and I am asking you to give me a brief lecture on our government's performance in this area. As the arts centre coordinator—I guess from your background, with some experience in arts and management—you have been training these people for two years under CDEP and getting out a good product at the end. Are you saying that, because you are not an official trainer, that you can't be the vehicle to train?

Ms Cummins—You have got to have accredited training to access some programs, and there is no accredited training available.

CHAIR—Why doesn't the government accredit you or people like you? Is that feasible? Are you skilled enough to be accredited? Obviously, you are, because you have been doing it in the past.

Ms Cummins—Certainly, we have been doing it. But you are asking us to do one more job, and art centres meet a range of tasks.

CHAIR—But you have been doing that already, haven't you?

Ms Cummins—Yes, we have been doing it already because the committee has asked us to do it, but it would be great to have outside help. I think the biggest issue is that for the last four years—and this was a committee directive; they asked me to go to Waringarri Corporation and change our CDEP rules—no worker at the art centre was allowed to get paid in the way that Centrelink pays, pays mid week. All workers at the art centre had to sign something to say they would be paid on Fridays—that they had to work their hours and then they would get paid. That was a committee decision. It was actually Kim's grandmother who pushed that for our negotiations. The thing that we then did was to use CDEP as a wage component. For us, it is not a welfare payment; it is only a wage component.

CHAIR—I cannot speak for the committee—and we will have our deliberation—but my feeling is that the committee would like to help on this CDEP issue.

Ms Cummins—We would be very keen for you to help.

CHAIR—But what I obviously need from the paucity of my questions is to find the right way to do it. You would probably have better thoughts about that.

Ms Cummins—Sure. From my reading of all the submissions that were put to the inquiry, most art centres employ local Indigenous people. It is essential. Good training is also essential to ensure that all workers in an art centre are well skilled. Obviously, the better skilled a workplace is, the better it does—not just at making money but also at ensuring that artists are well looked after, that cultural maintenance is there. That two-way operation of activities is important.

CHAIR—People would debate whether CDEP was going in the right direction or in the wrong direction—and I certainly do not want get into that—but this seems to be a quite different use of CDEP than someone painting rocks white, as the saying goes, in a remote community.

Ms Cummins—Absolutely.

CHAIR—If there has been an unintended consequence, it is something I am sure the committee would be interested in exploring and perhaps making a recommendation to the government that it should be looked at further.

Ms Cummins—I am happy to talk more about it and I am happy to provide more information. It might be a good point though, now, to ask him why he works at the art centre.

CHAIR—Before I ask that, I was going to ask Kim if he paints?

Mr Griffiths—Yes.

CHAIR—Did we see any of your paintings today?

Mr Griffiths—I do not think so.

CHAIR—Are they sent away?

Mr Griffiths—Yes.

CHAIR—I am sorry about that.

Ms Cummins—He is too busy working.

CHAIR—It is good that you came along. Before my colleagues ask some questions of you, perhaps I could just ask you why you are involved.

Mr Griffiths—I am involved with my old people. I like to watch them paint, and I like to do things for them when I am at work or even off work. I like to help them with food, and I especially like the culture. I just love being around my elders, learning lots of things every day. When they start painting they tell us stories about when they were young, our age.

CHAIR—So you are learning from your people. Are you also learning from Kathy on the management side—how to package things and how to get the money in and pay the money out and all those sorts of things?

Mr Griffiths—Yes, we do a little bit of that. We help the tourists if they come in, like showing them around the art centre and bringing them over to where we are working and stuff like that.

Senator MOORE—Kim, what are you hoping to do as a career, as a job?

Mr Griffiths—Just painting.

Senator MOORE—Do you want to be an artist?

Mr Griffiths—Yes.

Senator MOORE—One of the things that we talked about with some of the older artists we met today—who were mostly women—was their concerns that young people are not being involved in art, that most of the work you see is done by older people. Do you have any views about that?

Mr Griffiths—I do some paintings but some of the younger ones find it too boring. If you give them a canvas, they will start painting.

Senator MOORE—You said earlier that you liked to watch the older people paint. Is that how you learnt?

Mr Griffiths—Yes.

Senator MOORE—And then it just passes on?

Mr Griffiths—Yes. My grandfather showed me a lot of things. You probably know him—Alan Griffiths.

Senator MOORE—Yes, I saw his name. He is highly regarded. Senator Macdonald worked through a lot of the stuff about employment that you put in your submission. We really would like to get some more information from you about how you think it would best work, particularly from the perspective of whole of government, which is the catchy phrase now.

Ms Cummins—Yes, it is.

Senator MOORE—Let us see how it can work in terms of the interrelationship between the different people involved in the industry—and this is a question that I will be asking wherever I go. In a community like Kununurra, which is a relatively small area, art is incredibly important in terms of the process. We met a number of people this morning who have a role to play. What I am trying to work out is how they all interrelate. What is the relationship between the arts centres, the private operators and the community? How does that work, could it work better and do you have any particular views about how the industry operates?

Ms Cummins—I think there is always room for different operators. I think our key concern is when those operators are not operating fairly. Earlier, Pam said something about wasting time thinking about another person's business. Clearly, you do not do that; you concentrate on the

business that you are operating. For the most part, I think relationships between operators in Kununurra are okay. I think that most operations do not overlap between artists. Obviously there is an overlap between clients, because people fly or drive into Kununurra and do the round of the galleries. That is great. It is a good thing for Kununurra to have operations where people can visit and compare. Our point of difference is that Waringarri is quite clearly an Aboriginal owned arts centre. There are normally 15 to 20 artists painting there, and they are happy to engage with visitors because it is their place and they have very clear ideas about where they want that arts centre to go. We work with being an Aboriginal owned arts centre.

As far as authenticity goes, we provide documents to state that. Most of the tourists who come into the centre acknowledge that they notice the point of difference. We are out of town, and for a while it took a bit of effort to rebuild the Waringarri reputation, which lost its way for a number of years. We get quite a lot of visitors now, so we have pulled ourselves back into a stable economic environment. But, again, the main thing is that the artists are very clear about wanting to marry the broader ideas of culture with the selling of art.

Senator MOORE—My own experience, coming from Queensland, is that most communities have very strong internal politics so that, if you are working in a community, there will be a number of key interrelationships between families that spread over into the other operations of just keeping going. Is there any delineation with your centre? Do some people feel more comfortable there than others; do some people feel unwelcome there? What is the ownership if you are not from this area? Are you welcome there? Can you operate there? How does that work?

Ms Cummins—The Miriwoong group that are at the arts centre are a very strong group of people, there is no doubt about that. There are other artists' works represented there. There are a couple from Kulumburu that bring art work down during the season. There are carvers from Port Keats who bring down carvings during the season, and there are a couple of artists living in town who have some Gija background who also bring work to the arts centre.

Recently we had an issue with an artist who is related to Miriwoong people but who had not been at the arts centre before. It was actually a misunderstanding, I believe, over money and what someone should get paid. So the committee had several meetings and as a result we have an arts centre artists agreement. The committee has said to me that when new artists come and say they want to sell something at the arts centre let them know they have to talk to the committee first and then they will sign the agreement with them, so that the committee remains in control of who paints there. I have heard that some artists do not know whether they can come and paint there or not. Kununurra has a very extended community base surrounding it, and I think really that it may be hearsay that they cannot, and it is a case of coming to the centre.

Senator MOORE—And the committee rules; the final decision is with the committee.

Ms Cummins—Yes. They direct me. If I make a mistake they let me know about it.

Senator PARRY—I am sure there would not be too many mistakes, though. I am sure that they do not talk to you that often about that. I want to clarify some of the issues you mentioned about the finances to start with. In your opening paragraph you indicated the turnover. You then

indicated that there is about \$90,000 to \$100,000 for administrative expenses—largely your salary.

Ms Cummins—Yes, through the DCITA NACIS funding.

Senator PARRY—Is that included in the annual turnover?

Ms Cummins—The figure that I have in there was our sales turnover, so in fact our annual turnover was \$600,000. That figure was only our sales. We did get a couple of other grants during the 2006-07 year too, which included some funds from the Kimberley Development Commission so that Kim and his fellow workers can start extending their workshop capability. We did have some carryover funds from 2005-06 which contributed to our non-Indigenous employee.

Senator PARRY—Apart from capital improvement grants the operating turnover is in the vicinity of \$600,000, not \$500,000. Are the salaries paid to the employees out of the \$600,000—it is not any of the artists' commissions or fees? What I am trying to establish is that the payment to employees is not a part of the artists' commissions.

Ms Cummins—Absolutely not. When a painting is sold an artist is paid immediately, or within the week. At this stage it is 55 per cent, but we are negotiating a rise in that which we think we can manage this year. So an artist is paid straightaway—at this point 55 per cent of the retail price. The 45 per cent of the costs remaining goes to materials, Indigenous employee top-up wages, the freight overheads et cetera. We have a lunch program at the arts centre. There are a whole lot of little costs that go into that.

Senator PARRY—Are any artists who receive commission for their works employees?

Ms Cummins—No. Oh well, Mr Griffiths has done one painting.

Senator PARRY—So there might be the odd one or two here or there. Do you know how the mark-up of 55 per cent that is paid back to the artists compares with other centres?

Ms Cummins—Most centres are 40-60. Waringarri has been 45-55 to reach that stable position. We are currently doing a business and strategic plan which will look at how we do finances.

Senator PARRY—Do you pay the artists in cash?

Ms Cummins—Artists get paid in a number of ways of their choice. We do artists' payments twice a week and those artists' payments will be a quick-line transfer into their bank account. In some instances, artists choose to take a purchase order so that they can go to the local supermarket and purchase food. Some of that is a choice.

Senator PARRY—Why do they choose that?

Ms Cummins—Because they will definitely get their food before money is spent on other things.

Senator PARRY—The vouchers that are used as payment, presumably that would not be the bulk of their money? Just looking at some of the artists and some of the prices on their works, there is some substantial money being paid to artists if they are selling it on a regular basis.

Ms Cummins—That is the exact point: if they are selling it on a regular basis.

Senator PARRY—So a one-off payment then could just be, simply, there might only be occasions with one-off payments, not a regular, strong stream of income?
Ms Cummins—Yes. We have got probably half-a-dozen artists that sell well and regularly, but even they have their ups and downs.

Senator PARRY—So Minnie and Peggy, for example, who we met this morning, they would be regular?

Ms Cummins—Minnie and Peggy both had an exhibition in October last year. Minnie did exceptionally well out of that. She got a large payment from the works in that. A lot of her money goes on her family, her grandchildren. Peggy is in the same situation. She has 25 grandchildren and supports a number of those.

Senator PARRY—So there is an expectation from the extended family?

Ms Cummins—However, her artwork is a little bit slow at the moment, so she is not regular.

Senator PARRY—We are gathering evidence that basically there is a cultural expectation that if one person from an extended family does well, that wealth is shared.

Ms Cummins—Yes, and that is one of the issues with the Centrelink inquiry that started coming through last year. It is a really huge difficulty because an artist may be responsible for an extended family and some of that extended family may not be receiving any Centrelink benefits. When we had our meetings with Centrelink, they gave me the calculations of when an artist declares their earnings of X amount and how it will gradually decrease their Centrelink payments. It does not take into account the grandmother who is supporting a dozen or so grandchildren and getting them to school and all of those sorts of things, because she is not listed as the carer.

Senator PARRY—Do you think there is any bullying within Aboriginal families or any influence exerted upon the successful artist for moneys coming back into their family community?

Ms Cummins—I think the biggest issue is that we are living in remote Australia. If you go into the supermarket, you will see the costs of living. I think it is a \$400 a fortnight CDEP payment and rents here are anywhere up to \$600.

Senator PARRY—So the cost of living is exorbitant here?

Ms Cummins—It is expensive to live here. If there is bullying, maybe it is frustration. People need to eat and live.

Senator PARRY—On the reverse side of this, what about exploitation? Have you personally witnessed exploitation of Aboriginal artists or are you aware of any?

Ms Cummins—I have been aware of it over the years. I think maybe Kununurra has settled down a little. I am concerned about some unscrupulous practices that I have knowledge of.

Senator PARRY—Is there anything that you are prepared to share with us publicly?**Ms Cummins**—Not publicly, no.

Senator PARRY—Chair, can we receive a written—

Senator MOORE—Ms Cummins, are you prepared to go in camera? You do not have to make a decision straight away, but we could do that.

Ms Cummins—Yes, I have read about in camera.

Senator MOORE—You might want to talk with the Chair or with Ian about that later.

Ms Cummins—I have no allegations to make. I just have some issues that I would like to raise that are of concern. When Senator Coonan came through last year, the artists—and there were 15 or so artists who presented themselves to Senator Coonan—expressed some concern. I would just like to restate that.

CHAIR—We might do that. We are breaking for lunch after that, so at the end of this we might just clear the room.

Ms Cummins—It is very brief.

CHAIR—We will do that very quickly.

Senator PARRY—Ms Cummins, do you think there is an understanding within the Aboriginal community of the net worth of their artworks? Do you think it is widespread? Do they or do they not recognise that?

Ms Cummins—Not always. Part of the ANKAAA submission referred to the experience that Mangkatja Arts were having with artists who were having artworks bought from them and they had no idea of the price. Because we have an arts management system, we provide artists with accounts and picture balances of what they should be paid, and I have brought these to show you. But I still think that there is a lot of misunderstanding about what an artwork is worth and why it is worth that. Part of our education process at the arts centre is to tell that story and help share knowledge with artists, and particularly our young workers, so that they can then share the knowledge with senior artists. Some would have the knowledge; Peggy and Minnie do quite clearly. I have worked very closely with them for a long time. Peggy has been practising for 15 years, but other artists have been taking some time to understand that process and I think they need to understand it. One of the issues that some of our artists, because none of our artists are over the threshold—

Senator PARRY—What threshold?

Ms Cummins—For GST and ABN registration. Some artists have no understanding of that at all.

Senator PARRY—That is the \$50,000 threshold?

Ms Cummins—They have very little understanding too of some of the Centrelink issues.

Senator PARRY—Can I just get a handle on what you think the net return to artists would be and the number? Do you have any artists who would be, say, returning in excess of \$30,000 per annum?

Ms Cummins—We have had but that would only be a couple.

Senator PARRY—Would the majority—if you want to give a percentage, maybe 90 per cent or 80 per cent—be less than \$5,000 per annum?

Ms Cummins—Yes. As I said before, we are operating with maybe half a dozen artists who—

Senator PARRY—Would this be common, do you think, in your knowledge? If you cannot answer please say. In the entire Aboriginal art community would there be just a handful of high-wealth earners?

Ms Cummins—Yes.

Senator PARRY—We could probably name who some of those would be.

Ms Cummins—Yes.

Senator PARRY—Thank you. Kim, do you think that there is a need for an understanding within the Aboriginal community of financial management—issues relating to maybe tax, Centrelink benefits if you earn additional income and so on? Am I explaining myself clearly enough about a need for more knowledge about finances in relation to people who earn additional income from artwork? If you earned, say, an extra \$500 for selling a piece of artwork, do you understand that that has implications for any other money you may have—about declaring that for tax purposes if you are earning another income, or adjusting your Centrelink payments if you are on benefits?

Mr Griffiths—No.

Senator PARRY—Do you think most of your friends and family would be in the same position of having a very limited understanding?

Mr Griffiths—Yes.

Senator MOORE—Ms Cummins, I am interested in the Centrelink relationship. I worked there in the past. In terms of the process, you did allude to the fact that there is interaction with the community and Centrelink. How does the arts centre work with Centrelink, with the people who are going through the process in the area? Does Centrelink come and see you? Do you

actually talk there rather than in the Centrelink office? There are so many questions about income distribution, assets and all those kinds of things. How does that relationship work?

Ms Cummins—We had a visit from Centrelink last year. They were interested in finding out what artists earned. They asked if they could access the computers, to which I said no, that we were way too busy but that if they were concerned they needed to look at our website and address the artists themselves. I always inform artists, or our bookkeeping processes always inform artists, of their earnings. As a result of meetings with Centrelink, we had a meeting with the artists to let them know their responsibilities. I indicated to Centrelink at the time that it was beyond the arts centre to take on one more job.

Senator MOORE—To be a kind of Centrelink agent?

Ms Cummins—Yes. So we cannot do that. However, we do have a number of artists who have their mail directed to the arts centre. They tend to be artists with no literacy skills and we read out their forms for them and explain what they have to fill in.

Senator MOORE—So you are almost working in that role?

Ms Cummins—Yes.

Senator MOORE—Is there a local Centrelink office in Kununurra?

Ms Cummins—There is a local Centrelink office. I think the relationship with most people is a good one. It was not Centrelink from Kununurra that visited us; it was Centrelink from Darwin.

Senator MOORE—To the best of your knowledge—and we will follow up with Centrelink—was the issue of visiting the centre just a spot visit for you or was it part of an industry investigation from the department?

Ms Cummins—I think it might have been part of an industry investigation. However, I do understand that after the discussions with Senator Kemp that it stopped.

Senator PARRY—Just to quickly follow that up—and this is very hypothetical—if the government provided a part-time paid officer who could give advice on Centrelink taxation issues, do you see a need? If they were to operate out of your centre, with no cost to your centre—a fully-funded position, be it on a part-time or casual basis—would you welcome that?

CHAIR—There is a submission that suggests that the tax office really needs to do a lot of work explaining the cultural, the practical and the financial aspects of paying tax and all that.

Ms Cummins—Absolutely. Yes, I would say that definitely there needs to be a much greater understanding of tax issues and Centrelink issues in some instances. We have trouble explaining to a couple of artists the very basic position: when you sell a painting, you get this much and the arts centre gets this much.

Senator PARRY—Could you give us a guesstimate on the number of artists within your organisation who would benefit from that, who would need that assistance? Are we talking over 20, over 50?

Ms Cummins—I would say a substantial number.

Senator PARRY—Can you give us a rough number? Can you give us over a certain number? It would really help. If you cannot, it does not matter.

Ms Cummins—I would say 80 per cent would need support, so we are looking at—

Senator PARRY—What numbers?

Ms Cummins—We have artists that come in from all over, too, so if we have got 56 artists on the books, then we are probably talking about 40 or 50 of them.

Senator PARRY—That is a good indication.

CHAIR—I have some quick questions. You mentioned that your organisation lost its way. Is there a general reason for that?

Ms Cummins—Mismanagement. Prior to me being there, I think there were seven or eight coordinators in a five-year period. Lots of the submissions that were put to the inquiries talk about arts centre coordinators and the importance of stability and the importance of good skills. So you cannot go into a community and be the local store manager or whatever and think you can run an arts centre because it is a broad range of skills: knowledge about art, knowledge about business, knowledge about community development.

CHAIR—Well, you are clearly an exception to the rule.

Ms Cummins—There are a few of us around.

CHAIR—You are still there and it is going well. I am not going to ask you how much you are paid, because I am not sure how well-known it is. But I gather that arts centre coordinators are not well paid.

Ms Cummins—I am happy to state it.

CHAIR—Okay.

Ms Cummins—Fifty thousand. It is not much.

CHAIR—No, particularly living in a place like Kununurra or in a place where a lot of these centres are.

Ms Cummins—And that is the package; that is not what I get.

CHAIR—One of the problems—as I say, it has not happened in your instance, it is obviously a labour of love more than a labour for money—is that you cannot pay community centre operators a decent salary, so you are tending to get—

Ms Cummins—I think that is one of the big issues with DCITA and their funding. As I said, funding comes for my wage. Insurances are between \$15,000 and \$20,000, and bookkeeping services are \$25,000. It does not leave much for a wage.

CHAIR—Please stop me if this is getting too commercial. You are getting a total package of \$50,000. Some of it comes from DCITA. Does the centre top you up at all?

Ms Cummins—The centre can top me up. The biggest issue that I have is perhaps going to the community and explaining what my value is because there is no industry standard. Not only is there no industry standard for art centre managers' wages but also no industry standard for the guys that work there. There is no clear way of knowing what fair pay is for educating your governing committee about what someone is worth.

CHAIR—If you were running Qantas you would get a \$60 million bonus on the profits that you are making—

Senator MOORE—And sell overseas.

CHAIR—Very quickly I want to ask the questions I asked the previous witness: the certificate of authenticity—good, bad or indifferent?

Ms Cummins—I have a couple here to show you. Essentially they would be easy for fraudulent activity. We stamp ours and we sign it. Anybody in the industry knows what my signature looks like on an authenticity certificate and would know that I have been at the arts centre for four years. It is a small industry, but I think it is very difficult to police.

CHAIR—Do you believe that your signature has been forged on certificates?

Ms Cummins—No. What I am saying is that taking a photo of an artist with an artwork does not mean that that artist did it.

CHAIR—I am not putting words in your mouth. I am just trying to—

Ms Cummins—I think it would be very difficult to police.

CHAIR—Do you have a view on the resale commission?

Ms Cummins—It could be a very good way of feeding funds back into Indigenous arts practice or perhaps Indigenous health issues.

CHAIR—But it would be very difficult to administer?

Ms Cummins—That would probably be easier to administer than administering it to single individuals.

Evidence was then taken in camera but later resumed in public—

Proceedings suspended from 11.23 am to 11.35 am

CHAIR—There is one more question now from Senator Moore.

Senator MOORE—I do apologise, Chair, but it just jumped into my mind that we should get it on record. It is on the issue of non-Indigenous people who are painting in Indigenous style. It is not to say that they are claiming they are Indigenous; they are just people who do not have country or do not claim to have Indigenous background who work in the same style. Do either of you have a comment about the impact of that on the industry and on the community?

Ms Cummins—It increases the lack of integrity of the arts practice that we should be very proud of as Australians. It is a significant arts practice. The souvenir stuff that you can get in any market in Australia is of poor quality. It is meaningless. It is also taking away jobs from people within the Australian Indigenous industry.

CHAIR—Can you look at a piece and say, ‘That’s not Indigenous art’?

Ms Cummins—I have been able to. We had an artist a while ago who brought some paintings in. I was really confused because there were two different styles going on. I separated the piles out, from my background experience and knowledge, and I said to the artist: ‘I don’t get it. These ones are so beautiful and these other ones are not like that.’ She has a non-Indigenous husband. She said: ‘Don’t tell him—he’ll get really mad. He did them.’ But I would not say that the average buyer necessarily has that knowledge. It is clearly wrong. It is wrong from some of the points Kim mentioned about making people upset and angry, denigrating culture and showing no respect for the integrity of the artists.

CHAIR—Thank you very much for your evidence and for giving us your time today. Kim, thank you very much for coming along and helping us to get a better understanding of things. The committee is particularly interested in that CDEP thing. You have mentioned it in your submission. If there was a page you could do or if you have an idea of how it might work better, we would be very pleased have a look at that.’ Thank you.

[11.39 am]

KELLY, Mr Kevin Wain Thomas, Manager, Red Rock Art

CHAIR—Welcome. Thank you very much for coming along. Thank you again for showing us around your place earlier today. We had some discussions with you, some of which we will repeat here to get on the record. If there is anything you want to say in camera, in secret, you can ask the committee and we will no doubt do that. I remind you, and all witnesses, that these hearings are part of the Senate hearings, so they are protected by parliamentary privilege. Thank you for your written submission. I have not read it, but perhaps you could explain to us what is in here and anything else you would like to say. Then we will ask you a few questions.

Mr Kelly—I introduced myself and Red Rock Art in the first section this morning, so there is no need to go back through that. Having gone through only some of the submissions you have received so far, I saw most of the issues the industry has been dealing with for many years; they have really surfaced. I am happy to discuss them. One issue I did not see—it could well be there—is the cultural integrity of what is happening in the industry. For a number of reasons, I see the cultural integrity of Indigenous art as being diluted. That is an issue I want to put in front of you to see if you were interested in discussing it.

CHAIR—Could you explain what you mean by that and give examples or anecdotal evidence?

Mr Kelly—The structure of community art centres is such that many of them rely on funding. Funding bodies want their pound of flesh. They want numbers on the board. So historically, way back even before 1992 when I started, the pressure was on to come up with good figures to continue to be rewarded by more funding. This, in many instances, has become a priority of some art centres, when the whole industry is underpinned by the cultural integrity of the art. I see a dilution of that now as a result firstly of that and secondly in the last four or five years the overheating in the marketplace, which has passed, I think.

A money culture has been brought into the industry and I do not think the work is as strong in as many places as it should be. I am suggesting that it may be time to review the community art centre model, which has been so successful, with a view to refocusing those bodies towards cultural integrity, cultural maintenance and cultural practice. I am referring to I think section (c) of the terms of reference. The sustainability of the industry in cultural and artistic pursuit can only come if that area is maintained. That is my biggest issue with the future. The other issue I was surprised to see raised in the submissions—I only saw it raised once—was taxation. I heard that it was raised here. That is a sleeping dog and it would have been better left, in my opinion, for now so we can continue to deal with it at ground level. Now that it has been raised, I have a few comments. Every Australian has a responsibility to pay taxes. The easy way for that to occur in Indigenous art, according to that submission, which I think was from Leibler—

CHAIR—Arnold Bloch Leibler.

Mr Kelly—was to bunch all Indigenous people into a group, legislate gently towards having them pay tax and away you go. I do not think you can do that. Within Indigenous art there is a whole range of people who need particular consideration. There are a lot of younger artists who can easily be trained in their taxation responsibilities and there are some really old people whom you will never successfully be able to tax. In between there are other groups. To enforce taxation on the Indigenous art industry as a whole could almost be catastrophic. I can give the example of Nancy Noonju, who you met this morning. If she was under any fear of her pension—the one regular payment she gets—being affected by her art painting, she would stop painting. That would occur on a grand scale across the board. I do not know whether this inquiry is geared to tackle that issue properly. I would personally hope that it was not mentioned—I would let it go for now—but it has been, and they are just my views.

CHAIR—In deference to Arnold Bloch Leibler, I do not think they were suggesting special legislation for the tax bit, but on the resale value, and the certificate of authenticity. They were suggesting, as I recall their submission, that the tax office should put more effort into explaining to Indigenous people all about tax and what impact it would have. Even so, I take it from what you are saying that you think that might be opening a can of worms.

Mr Kelly—Yes, one that the sector is not prepared for yet. I am convinced that the last few years have seen a complete overheating in the marketplace, adding fuel to this money culture. We will now see a settling back in the industry. Sales will fall. That is a prediction. That is the first thing we need to deal with. Part of that is consumer confidence as a result of a lot of fraud and authenticity reports. Then there is an overheating of the market and economic changes like the new super laws. People are chucking money in other places. Art sales will drop.

CHAIR—What Arnold Bloch Leibler were motivated by, as they say in their submission, is that if you have more of a tax paper trail through the system you might address the carpetbagging. That is what they were getting at. We saw some paintings today that were retailing in excess of \$100,000. One would hope that, whoever they belonged to, the person would understand tax responsibilities there. The suggestion was that the ATO tax officers needed to be more culturally aware. I am not defending Arnold Bloch Leibler or their suggestions, but my understanding was that they were trying to say, ‘Explain this, but explain it in a way that doesn’t frighten the horses, so to speak.’ But thank you for your comments on that. Is there anything else you wanted to say?

Mr Kelly—No.

CHAIR—Thank you for this written submission. It is very good and it saves some of the questions we were going to ask you.

Senator MOORE—I will leave the tax stuff to Senator Parry, if he chooses to take it up amongst all of the other stuff, but your point about the Centrelink implications is relevant in terms of where we move forward and the communication process with artists. Your point about the pension impact relates to a lot of people and their earnings. It is almost a disincentive if you are putting them in a situation where they are balancing what they may earn with what they consider their livelihood. That needs to be considered in the long term with Centrelink. As a private business person who has a community background, from what you have told us, do you

talk to people from the Centrelink area about your concerns or about best practice for your artists?

Mr Kelly—I have done but not in recent times. Government jobs here turn over at a great rate and while you might strike up a relationship with someone for a few weeks and begin discussions, I have learnt that they never stay.

Senator MOORE—So all that investment goes to nothing?

Mr Kelly—Yes, and so the status quo.

Senator MOORE—Something in this committee's purview is the whole-of-government approach and how we work and I think that that is one thing we can take up in terms of where we go into the future. Can you remind me of the first point that you raised?

Mr Kelly—It was about the integrity.

Senator MOORE—Senator Macdonald will follow up on some of the other suggestions. Firstly, I would like to get a comment from you about the cultural integrity of the art and how that is maintained and also about the intergenerational stuff. It comes up in a lot of the submissions about developing this as an effective industry with young people coming through, so that we actually balance the skills transfer with the cultural training and pride. I would really like to have your comment because you have worked in the area for so long. Secondly, do you have any issues about the role of the non-Indigenous artists working in an Indigenous style?

Mr Kelly—Just to start with that, Red Rock Art does not use the words 'Indigenous' or 'Aboriginal' in any of its promotion. I have taken art in its basic, creative form. A good painting is a good painting. It does not matter whether the person has got a black hand or a white hand. That is how Red Rock Art began. We do not claim Aboriginal status in our taxes with our GST. We charge the client GST and we pay the tax department for every one. It is easier that way. But I am continually annoyed by the overuse of the word 'Indigenous'. They are Australians and they are either good painters or they are not good painters.

Senator MOORE—From your perspective as someone in the industry, you do not have a problem with someone painting in the style of a certain group who is not from that certain group?

Mr Kelly—It would not happen in the studio that I run because it has never actually happened. They have got to feel happy with themselves; you have got to fit into that studio. Are you talking about fraud?

Senator MOORE—That is my interpretation, but we are trying to work that out. It is one of the terms of reference for the committee that there have been allegations that there has been fraud, which is false claiming, but then there are variations of that as well. There is me, as an artist—I am not!—presenting a painting in an Indigenous style and everyone knowing it's me, but I am not Indigenous. How do you feel about that? How would you promote that? Would you promote that? Secondly, if someone from this part of the world is painting in the style of North

Queensland; they like the style and they choose to paint in that way. As someone in the industry, and someone who has a reputation and who sells, do you have any views about that?

Mr Kelly—Firstly, the work would be without cultural integrity. That is the very first thing. The second thing is, for me to promote it or to engage you in that, you would need to convince me that you are being creative.

Senator MOORE—So it is a good painting?

Mr Kelly—Yes, and I am sure there would be other considerations.

Senator MOORE—So you prefer to have the cultural integrity—that is important to you, but I do not want to put words into your mouth. Cultural integrity, as you talked about in your opening statement, is important. But if someone produces what you see as a good work of art and it is not in a certain style—for instance, the ochre paintings of this part of the world are quite famous and someone not from this part of the world might produce a good ochre painting—you would still be prepared to promote it?

Mr Kelly—Yes, I do. Jeanetta Dyson paints with us, and she paints in ochre. She paints her style. I actually did not hang a lot of that work—there was one piece up—but maybe I should have. Quite clearly, it is not painted by Nancy or Nellie. She has been painting for 40 years and is a highly—

Senator MOORE—So it is a good piece of work?

Mr Kelly—It can be, yes.

Senator MOORE—I saw her picture in your book and, whilst you cannot presume someone is not Indigenous by looking at a photograph—it would be very stupid to do that—my understanding is that that particular artist does not claim to be Indigenous.

Mr Kelly—No.

Senator MOORE—But she paints in that style, and you promote it. But everybody who is looking at it or buying it knows that it is not Indigenous?

Mr Kelly—Well, do they need to know that?

Senator MOORE—Do they?

Mr Kelly—No.

Senator MOORE—You do not think so?

Mr Kelly—No. But if Red Rock Art promoted itself as an Indigenous art gallery, and if there was a non-Indigenous person painting whatever, that would need to be clear. But we are not. To enable that cultural mix, we do not use the word ‘Indigenous’, and I have not found a need to use it yet.

Senator MOORE—But when I went into your gallery this morning—and it is very beautiful—I did not even think to ask whether the people whose works were on the wall were Indigenous; I just presumed they were.

Mr Kelly—All of them were, but the baskets were not, the sculptures were not, and the painting in the kitchen was not. We put them up because this was an Indigenous inquiry.

Senator MOORE—Can I just get a comment on your issue about how we retain the cultural integrity. When that is something that is being done, from your point of view, how do we do that and how do we get young people involved in the program?

Mr Kelly—I am suggesting that the art centre model which has carried us from 1986 through to now quite successfully may need to be reviewed to enable it to better function as a cultural maintenance organisation rather than continually trying to impress the funding bodies by making sales. That is one point. The other point is that we need to allow the marketplace to settle at the artist level and try and reduce this money culture that I see happening—that is, by painting for money rather than painting well and getting money. There is a big difference from just sitting and painting for money.

Senator MOORE—Do you have any suggestions of how it could be reviewed?

Mr Kelly—I think the art centres could possibly do it themselves through their peak bodies, ANKAAA and Desart. But you would need agreement from the funding bodies to allow that money to go in that direction.

Senator MOORE—So the roles you identify in terms of the community centre, the training processes and the cultural development areas would be identified and funded in their own right, as opposed to the art processes. Is that right?

Mr Kelly—Yes. And less focus or less responsibility on increased sales.

Senator MOORE—Sorry, Senator, I talked too long.

Senator PARRY—No, it is very interesting. Thanks. That is the trouble: I think we all have lots of questions to ask and there is such a limited time to do it in. Just quickly, on your taxation, you mentioned earlier—correct me if I am wrong, and I hope I am wrong—that there were some taxation issues that were different for Indigenous people than for non-Indigenous people?

Mr Kelly—The GST. Indigenous artists are GST exempt to—

Senator PARRY—Are you sure?

Mr Kelly—That was my understanding.

Senator PARRY—You may be right. I would be very surprised if you are, but you may be right. We will investigate.

Senator MOORE—There might be certain income levels.

Senator PARRY—You are GST exempt if you do not earn \$50,000 or more. That would apply to anyone. I am getting nods from the back to say that there is a GST exemption. We will investigate that further. That is news to me. How do you pay your artists?

Mr Kelly—That is at the artist's discretion.

Senator PARRY—Is there a predominant method used?

Mr Kelly—I will just run through them. We only have a few artists.

Senator PARRY—Can you leave the names out? I think it is probably not desirable to put personal details on the record.

Mr Kelly—There are two artists that I buy the work off once it is completed in the gallery.

Senator PARRY—With those two, do you then mark up the work? Do you put a percentage on that?

Mr Kelly—Yes.

Senator PARRY—Do you mind declaring what that percentage is?

Mr Kelly—I try to double the outlay. I have made the initial outlay.

Senator PARRY—So if you buy it for \$100, you will sell it for \$200?

Mr Kelly—Yes. And I supply the materials.

Senator PARRY—Thank you. And the other methods?

Mr Kelly—Other methods are at point of sale. The artist is either paid 60 per cent of the sale or they are credited for 60 per cent of that sale. In the case of the ladies that you met this morning, they are credited.

Senator PARRY—And they are the only two methods?

Mr Kelly—That is three. With non-Indigenous artists, for example, Jeanetta Dyson supplies all of her own materials and we pay at 35:65. But they are all her own materials and everything is done under her own steam.

Senator MOORE—She gets 65?

Mr Kelly—Yes.

Senator MOORE—I always have to think of a tennis match. So that is 35 to the gallery and 65 to her?

Mr Kelly—Yes. With other artists it is 60:40, but I supply the materials. This is all just designed to minimise the administration costs. You could book out all of your materials, but—

Senator PARRY—We are not questioning the method; we are just trying to get an understanding of it. You mentioned something this morning and you do not have to repeat it on the public record if you do not want to. It was about assisting in the management of personal finances. Do you want to elaborate on that without using the names of the individuals?

Mr Kelly—Yes. It is fairly common practice. With some of the people—

Senator PARRY—Is it common practice with you or with—

Mr Kelly—It is across the industry, I would think—certainly in Kimberley.

Senator PARRY—So do you have direct knowledge that it is common practice or are you just guessing?

Mr Kelly—No, I have worked up the road here at Waringarri. I established Warmun Arts Centre and that was part of the setup. That is still done now. I work closely with Mangkatja Arts in Fitzroy Crossing. I have had quite a lot to do with Balgo. They all manage artists' finances to whatever degree the artist requests.

Senator PARRY—So you have at least two that you assist with managing their personal finances. Do you have any more?

Mr Kelly—No, I only have the two now. We have shrunk considerably as people have passed on or got too old to paint. Red Rock Art is in its twilight years—with the exception of one young artist. We are actually moving on to other things one day. We have very few artists.

Senator PARRY—I have two final questions. Firstly, do you feel that there is exploitation of artists in any way, shape or form? Do you have any direct evidence of that?

Mr Kelly—Over the years I have seen all sorts of exploitation.

Senator PARRY—Do you think it has increased or decreased over the years?

Mr Kelly—The groups within the east Kimberley—right across the Kimberley, really—work pretty closely. When something is occurring in west Kimberley that is a bit frowned on—I do not like using the word 'carpetbagger'—or if someone hits Fitzroy Crossing we get phone calls within minutes if they are heading our way. So together we have been able to keep the lid on a lot of it.

Senator MOORE—Do you mean bias?

Mr Kelly—Yes. As a body, we are much stronger in defending ourselves against that sort of thing. My understanding of the Arnhem Land communities is that they see each other as opposition. Without the strength of the broader arts sector there, they get infiltrated at a higher rate.

Senator PARRY—Thank you.

Senator MOORE—I want to follow up on what ‘managing income’ means. You talked about ‘managing someone’s finances’. I know that varies from person to person, but from your perspective what do you mean?

Mr Kelly—It means providing money three, four or five times a week for food, paying bills, buying clothes, organising air tickets and holidays and providing fridges, washing machines, beds, motor cars, et cetera.

Senator MOORE—So when you said ‘on credit’, you meant that the gallery works with the artist in a very personal relationship using the credited amount they have earned from their painting sales to do all these other things and to keep a record so that both you and they have some idea how it is going. Is it like that?

Mr Kelly—Yes. There is a running cash sheet that is generally in credit—it is at the moment for anyone who works that way. If they request a washing machine, we go to that account and organise for that to happen.

Senator PARRY—This could be where the allegations of purchasing motor vehicles, fridges or even alcohol—we have not had one allegation about payment of drugs for artwork—are coming from. It is at their request, I understand—correct me if I am wrong—at the request of the artist, that you manage their money, and if the artist wants a car you buy the car. So there could be allegations that you are buying a car for an artist, without people understanding the intricate details of the arrangement.

Mr Kelly—That could happen.

Senator PARRY—So that is a common occurrence with two of your artists?

Mr Kelly—That is the way that I work with two of them, yes.

Senator PARRY—Thank you for that.

CHAIR—Is the money in your account or in an account of theirs over which you have control?

Mr Kelly—The money is with Red Rock Art. We have at different times had bank books—indeed, there are still bank books in existence—but I find them problematical. Banks are reluctant to issue passbooks.

CHAIR—If at any time the particular artist came to you and said, ‘I want the rest of my money in cash’—

Mr Kelly—That has happened. We say, ‘Here it is.’

Senator PARRY—You hand it over.

CHAIR—It is only left with you as long as they want to leave it with you?

Mr Kelly—Yes.

Senator PARRY—And that is clearly understood by the artist? Do they clearly understand that they can have access to their money at any point?

Mr Kelly—I would think so.

Senator PARRY—Do you keep sufficient funds that you could pay the money out if you had a call on all of those funds at one point in time?

Mr Kelly—Yes.

Senator MOORE—Have Centrelink ever spoken to you? We have heard from other areas—not just here—that sometimes Centrelink do a bit of a trawl through the industry.

Mr Kelly—Last year.

Senator MOORE—So you had to work with them on behalf of some of your clients to work out whether they met all the requirements of Centrelink?

Mr Kelly—No. It did not get that far. There was a meeting. ANKAAA stepped in and did a lot of good work. Desart might have done so, too. They met with the minister concerned and—

Senator MOORE—Sorted it out.

Mr Kelly—things went quiet. I responded to the letter that I needed to respond to. Like most of the art centres which got the original letter, I provided names only. I basically said: 'Here are our artist names. You need to deal directly with these artists to get this information.' That was my response. There was not a return letter.

CHAIR—Are you a member of the Australian Commercial Galleries Association?

Mr Kelly—No.

CHAIR—Are you aware if anyone in town is? I should have asked everyone else.

Mr Kelly—I do not know of anyone.

CHAIR—Is there some reason that you are not?

Mr Kelly—If there were benefits in it, I may have looked at it. But really, I have never looked at it.

CHAIR—Do you sell most of your material locally or to the eastern galleries or overseas? What percentage?

Mr Kelly—It is a whole mix. A small percentage of it would go directly overseas; possibly 10 per cent. The greatest percentage, maybe 60ish, might go into the eastern seaboard and I include Perth in that. Then we have a tourist season which would probably take up the rest. Those visitors are from all over, any place in Australia or almost anywhere overseas.

CHAIR—Do you sell on the internet?

Mr Kelly—We sell online through a website called Aboriginal art online. We sell a few things. We list some work there.

CHAIR—Who operates that?

Mr Kelly—Dr Martin Wardrop has been doing it for probably five years out of Brisbane. The website is Aboriginalartonline.com.

CHAIR—Yes, I think he is giving evidence to the committee. I notice that in your written submission you emphasise the importance of cultural maintenance; I acknowledge you say that. Is the certificate of authenticity proposal that I have raised with other witnesses good, bad or indifferent?

Mr Kelly—It has been in place for 20 years. Educating the marketplace is the real answer. It is a very difficult task, but that is where the best results are coming from.

CHAIR—Does that mean that if it has your stamp on it, people know it has come from a reputable buyer?

Mr Kelly—I would hope so.

CHAIR—There was a submission to us that we should get a government sponsored certificate of authenticity. Would that be practical; would it work?

Mr Kelly—It may work to a degree but you are going to exclude people. You are going to exclude Red Rock Art, because we are not Indigenous.

CHAIR—It would only be for the Indigenous paintings you sell, not for the others, I would assume.

Mr Kelly—I would have to shift my whole philosophy on painting to join.

CHAIR—Fair enough.

Mr Kelly—There are other people who decide to work directly with private galleries and may or may not wish to be Indigenous.

CHAIR—Resale commission for everybody, Indigenous and otherwise—do you have a view on that?

Mr Kelly—There were so many examples across the world where it was so cumbersome to manage that it sort of got dropped. Is that correct? The management costs were greater than the income.

CHAIR—Someone told us it happens in France.

Mr Kelly—A number of European countries have it in place but, from memory, Germany has not made a payment to an artist for the 20 years it has been in. That is sort of where the gas got turned off.

CHAIR—It sounds good when you talk about it.

Mr Kelly—I look after Rover Thomas's estate as his executor and I look after Jane Yalunga, who sees on television and reads in the news about her father's paintings selling for heaps. She has five kids and she is barefoot. These are the instances that brought it to the surface. How can the family benefit after the artist has gone? Jane gets a bit of money from copyright and that is it. I do not know whether that is different for non-Indigenous artists.

Senator PARRY—Can I clarify what you mean by managing a deceased estate for a particular artist?

Mr Kelly—Rover Thomas, Queenie McKenzie and George Wallaby each had wills made up by the Aboriginal legal service here prior to their dying. I was nominated—in two cases I didn't know I was nominated—as executor of their estates. The wills state that I will manage their copyright and then a whole list of other things to do with their affairs.

Senator PARRY—So managing their entire affairs—not just the portion of their estate relating to their artistic endeavours?

Mr Kelly—Yes, their whole affairs.

Senator MOORE—I have been asking all the witnesses so far this morning about the interaction of the various people who are involved in the industry in your local community. Kununurra is a relatively small place. There is the arts centre and there are a number of galleries. How do you interrelate? Is there a good way of doing it? Is there a way that is not as effective? Is it working well in Kununurra?

CHAIR—You can answer that in camera if you want to say bad things about it.

Mr Kelly—No. For a long time I have taken the stand that together we are much stronger in the industry, and we are not competitors. There are little issues that compete of course, but in the big picture we are not competitors. We present to the public in a much stronger way if we can talk about each other in a unified way and deal with issues from one art centre to another. For the most part, that is what is happening here. I talk with Jirrawun, I talk with Waringarri, I talk with Warmun Art Centre and I do a lot of project based stuff with Mangkatja Arts in Fitzroy and keep the communication open. Kununurra alone has four art galleries. That makes it a pretty special place, I think. It probably offers more hope for a stronger future if we can maintain that.

CHAIR—Thank you very much not only for your time today and for your written submission, but for showing us around. We very much appreciate it and wish you all the best in the future.

Proceedings suspended from 12.18 pm to 12.46 pm

OLIVER, Mr Anthony Kenneth, Chief Executive Officer, Artistic Director, Jirrawun Arts

TIMMS, Mr Freddie, President, Artist, Jirrawun Arts

CHAIR—I welcome the witnesses. Thank you for coming along today and thank you, Tony, for showing us around earlier.

Senator MOORE—Your shed.

CHAIR—Yes, your shed. As I said, if it were mine, I would have the paintings in my bedroom and me living in the shed. Thank you for your time. The committee has received your submission and I will invite you to make any amendments or alterations to it and to comment briefly on it before we ask you some questions. If there is anything you want to say that is of a secret nature, we can take evidence in camera. I also repeat that this hearing is a meeting of the Senate and any evidence given to the committee is protected by parliamentary privilege. With those preliminaries, is there anything you would like to add, Tony, to your written submission?

Mr Oliver—I might ask Jirrawun's president, Freddie Timms, to speak.

CHAIR—Thank you very much, Freddie, for coming along and for allowing us to have a look through your place earlier.

Mr Timms—I thank Miriwoong for having a meeting in their country. I welcome the government blokes here and I want to ask the government for the paper—

CHAIR—You want to ask the government for the—

Mr Timms—The piece of paper for selling the first painting.

CHAIR—The certificate of authenticity—that sort of thing?

Mr Timms—Yes.

CHAIR—Okay. We might talk ask you a bit more about why you think that later on if that is okay?

Mr Timms—Yes.

CHAIR—We will certainly come to that. Who is going to start the questioning today—Senator Parry?

Senator PARRY—Thank you. The submission was a very detailed one and it has some challenging aspects for us. I am particularly interested in the Australian taxation issues you raised in your submission indicating that you want more education. That is under item 6—actions needed from the Australian Taxation Office. How would you see this happening? How would you practically see the ATO assisting artists and assisting in this cause?

Mr Oliver—I think part of the answer to that is not just the artists. Obviously many arts centres that are doing the right thing by the artists with regard to equity, where artists are being paid proper amounts and are being managed in their careers, not just down to the art but in many other areas, are looking after people's health. They are overworked. I think that the government could help with the ATO in terms of actually taking that pressure. I do not think it should be a role that arts centres play, but the taxation department is involved with art centres in helping them educate about the rules and so forth of taxation law.

Senator PARRY—I made a hypothetical suggestion to one of the other witnesses this morning, asking what the view would be if a government funded person were available at each of the centres. What do you think about that idea?

Mr Oliver—I think it is good. I think we have to put it also in a context where many people, Indigenous artists, in the north of Australia are illiterate and innumerate, and this is part of the problem. So people are easily exploited outside of an arts centre protected system because of this issue of innumeracy and there is no understanding that there are taxation issues involved. I think the taxation issue is part of the exploitation issue. I think by bringing in the tax and educating Aboriginal artists they do actually have tax and legal obligations—

Senator PARRY—Could you expand upon why you think the ignorance of the tax laws is part of the exploitation system? I do not get the link. Could you explain that?

Mr Oliver—If there were a certificate of authenticity, basically of the original price paid to an artist, whether it is in a private individual gallery, with a taxi driver buying a painting, or whether it is an Aboriginal arts centre funded by the government—any scenario—you would have that original piece of paperwork and the original price paid. And I am not talking about a regulating thing on pricing—whatever that price is, it is.

Senator PARRY—Market value.

Mr Oliver—Therefore it is related to taxation because, for the first time, you have a monetary document that the painting was purchased. If there is no certificate and there is a piece of art without that certificate, there is no providence.

Senator PARRY—What you are suggesting is that artworks are exchanging hands without necessarily any paper trail for getting authenticity—

Mr Oliver—It is a cash economy.

Senator PARRY—Yes. So that would assist there. The lack of understanding of taxation by, in particular, Indigenous artists could then be addressed through an education program, ostensibly through the arts centres.

Mr Oliver—I believe that those taxation issues—the issues of tax and what tax is—should be addressed. When we started our company we did the right thing. It was very difficult. No-one had ever known what taxation was. That is quite understandable when you have a culture that is 60,000 years old. In terms of colonisation of Australia people from this part of the country really were the last people colonised in European and Australian history, so we are not even 250 years

down the track here. We have maybe 140 years of interaction with a hunter-gatherer society. Out of those 140 years, probably the first 80 of those were not particularly pleasant; people were killed and poisoned. There was no friendship from the Europeans. Then we had a cattle industry where people worked for no wages. So you got your tucker, you got your tea, you got your pants and you got a little bit of holiday pay at the end of the year. For the most part in those stations, there was no interest in teaching management skills or monetary skills. We can bring it down to 1967, where Aboriginal people for the first time were receiving welfare payments with no understanding of money. So we have created a dependency system—

Senator PARRY—We handed the cheque without the education.

Mr Oliver—Yes, it is an outrageous sort of assumption on our part to leave great people with no skills—no management skills. Therefore, Aboriginal people become dependent on non-Indigenous people to manage their affairs. That should be regulated. The people working for Aboriginal people should be honest people. I think you can help that by setting some legislation in the parliament. What I am saying about certificates can apply to any artist in Australia, not just Indigenous artists. We do not have to make this a sort of segregation.

Senator PARRY—That is made clear in the submission.

Mr Oliver—Yes. It can apply to everybody. If people want to buy paintings with cash, with a carton of beer or with some tucker, let them go ahead and do that. Those people can even produce a certificate. You can download it. If they want to lie on it, let them lie on it. At least then, if they say, ‘I paid \$5,000,’ and they have only paid \$50 your body can go in and say: ‘Let’s see the supporting documentation for that. Let’s look at your bank statements. Let’s look at your chequebooks.’ If they say, ‘I paid that person in cash,’ your response is: ‘That’s interesting, because you haven’t paid any tax on that cash. You haven’t declared the income’. It is an easy system. We are not saying anything about what price of the painting should be or whatever. Anyone who works outside of that system is in the black market. Paintings from there have no provenance and cannot go to auction. It would be illegal to put that painting in an auction because it does not have provenance. If that person buys from Freddie for \$100—and whether that is at an art centre or an art gallery does not matter—the second buyer buying will see the price paid for that original purchase. If it was equitable, the person buying it will say: ‘Fair enough. I am prepared to pay another 30 per cent or 40 per cent or even another \$100,000—as long as that equity went to the artist in the first place.’

Senator PARRY—And it is clearly and accurately documented.

Mr Oliver—Yes. In a sense, you become a fly on the wall to that original purchase. If people want to lie on that original purchase, you will catch them with a regulating body—a policing body.

Senator PARRY—Or with a request for production of authentication.

Mr Oliver—Yes.

Senator PARRY—I will not go down that track at the moment. I will ask some other questions, because I know my colleagues will follow up on the authenticity documentation.

What about other areas of exploitation? We have just covered taxation. Are there any other areas in which exploitation of Indigenous artists may be occurring, either here or elsewhere?

Mr Oliver—We all know that there are fraudulent paintings. That has existed in art ever since the merchants in Venice when paintings left the church and you had a middle-class—a bourgeoisie—that could buy paintings. Fraud has always been there. Fakes have always been there in art. You are not going to stop that. That is an issue, but the primary issue is equity and getting that person paid ethically from the beginning. You will probably come to the next question, which is about auction houses and resale. That is an important issue, too, but I do not want that to get confused with what we are saying, because that is an important issue for non-Indigenous artists as well.

Senator PARRY—Absolutely.

Mr Oliver—I do not want to make this a sort of segregated or special thing for Aboriginal people. It is across the nation; it is for all Australians. I can give a good example of how when equity works for all people you have choice. Paddy Bedford, as you all know, is a great artist. He has been well managed over 10 years; he has been looked after. He has an economy, so therefore he has choice. He was in Kununurra Hospital here two weeks ago and the hospital did a good job. The hospital here can only do what it can. Whether you are black or white does not make any difference. We all suffer from not having specialists here, and that is not the hospital's fault. The hospital actually did a great job in hydrating him and keeping him alive.

He had his own equity and was not dependent on the public health system. Without that equity, he would have perished; he would have broken down. He had the money. Because he had money from his paintings he could get a business class ticket and pay a minder to take him to a private hospital in Perth, where he got the best surgeons and the best specialists, and they located the problem. He had an operation on Friday. We all thought that he would never walk again, but the miracle he is that is actually now in rehabilitation. That operation has probably—miraculously—added another 10 years to his life. He will be better off physically than he has been over the last 10 years. The issue is humanism; the issue is equity. The issue is Aboriginal people having choices, and not being defined by a system that is a second-rate system. The more remote you are in Australia, whether you are black or white but particularly if you are an Indigenous person without numeracy, without literacy—

Senator PARRY—Can you point to specific examples of exploitation on the basis of artists not being paid what their works are worth?

Mr Oliver—I can, but I am not the sort of person who will—

Senator PARRY—That is okay.

Mr Oliver—I am not a McCarthy sort of person who names names; sorry.

Senator PARRY—You have a knowledge that this exists. Could you give an indication as to whether it occurs within five per cent of the Aboriginal art community? Is it higher? Is it lower? Can you give an indication, just based on your knowledge?

Mr Oliver—We regularly see articles in the newspaper about the multimillion dollar Australian Indigenous arts industry. Outside of the art centres and the bodies looking after the artists and their equity, I would say that the majority of those multimillions of dollars is going to dealers, not to artists.

Senator PARRY—Where are the dealers located? We are not talking about dealers in art centres.

Mr Oliver—They are located locally; they are located in the cities. Primarily, they are in the cities. There are a number of Aboriginal galleries that have had the audacity to name themselves after parts of this part of the country that are exploiting Aboriginal people and that have no concern for Aboriginal people whatsoever—none.

Senator PARRY—Do they come and buy directly from the artists?

Mr Oliver—They do, and they get supplied as well.

Senator PARRY—Through art centres or through artists directly?

Mr Oliver—No, not through art centres.

Senator PARRY—Through artists directly?

Mr Oliver—Yes, or through agents—carpetbaggers.

Senator PARRY—The carpetbaggers.

Mr Oliver—Yes. That undermines everything that we try and do as an organisation, because these guys are paying 48c in the dollar already. We started that 4½ years ago with poor old Freddie here. We came clean because we felt that we could not articulate the issues if we did not lead by example. We knew that working through the tax issues gave strength to Aboriginal people because you could leverage from that. It is not like black fellows get a special deal; they do not get a special deal. Freddie pays 48c in the dollar. He had to pay back the ATO 10 years of tax, so you can imagine what it is like for him. He lives in an obligation society and he is the sole income earner for a very large family. There is a lot of pressure on people like Freddie; there is pressure on artists at Waringarri; there is pressure on artists at Warmun. They are the sole income earners, other than people who have got mining royalties or whatever. There is so much pressure on the art centres. Artists like Freddie have huge obligations. They have their own social welfare system with their capital—

Senator PARRY—With their family.

Mr Oliver—Do you get me? I strongly recommend that the ATO creates a tax break for Aboriginal artists so that they are not paying 48c in the dollar. I should not use Kerry Packer's name, because he is deceased—not that he paid 48c in the dollar anyway. Kerry Stokes or a doctor in Melbourne or a surgeon—

Senator PARRY—A wealthy individual.

Mr Oliver—a politician like yourself—

Senator PARRY—Oh, yes!

Mr Oliver—pays 48 c in the dollar. But if you are having a heart attack, you can get to a private hospital and your life will be saved. If Freddie is having a heart attack or he needs specialist treatment, where is he going to go? He is going to be dead by the time he gets flown to Perth or Darwin, so it is unfair to be charging anyone up here 48c in the dollar, whether they are black or white. We do not have the same opportunities or facilities up here.

Senator PARRY—We are moving into another domain.

Mr Oliver—We see all the mining resources. I know what Argyle pays the state government in tax in a year, and the government should be building bridges up here, improving our hospital and helping the doctors here. Those taxes end up down in Perth and building their highways and improving their hospitals.

Senator PARRY—We are getting into zonal taxing, which is another domain.

Mr Oliver—Yes. But, coming back to Freddie with his 48c in the dollar, he has back-paid six or eight years of tax, so you can imagine the pressure on us as his management. We've got to keep supplying his income and we've got a backlog of over \$100,000 to pay the tax department. So I know the pressures on him from family. He is not getting the same income while we are doing that back tax for him, so he gets a bit short. He gets a bit short, doesn't he? And he might need just that extra \$1,000 because of a family funeral or helping pay for a funeral because of his obligation to do that. We've got to budget for him, even though it is his money. Suddenly there is a funeral: 'I need two grand.' So what happens? The unscrupulous carpetbagger will say: 'You poor fella—that Jirrawun is not looking after you, is he? You come, I'll give you \$2,000,' getting a \$12,000 painting or a \$30,000 painting. Can you imagine how we feel, how the collectors that are supporting Freddie as an artist feel and how the galleries that have done the right thing and not taken much commission on a consignment system feel? Everyone just feels deflated and everyone feels that the whole system is being undermined. I understand why Freddie does that; I do. He has done it once or twice and he has great shame for doing it, but at least he can come and talk about it and say: 'I did it. Yes, I did do that. I feel really bad about it.'

So these are all the real issues that people face. I think you will find that the certificate document doesn't stop those issues happening, but at least what it does is it means that, if the collector pays this price at Jirrawun, they can pick up a piece of paper from the other place and there is a Freddie Timms, and there is the original price paid to the artist. And, if that's the right price, at least that is a good thing. At least that is something.

Senator PARRY—There are some complications with authenticity and paperwork, but I will conclude there and allow my colleagues to ask some questions.

Senator SIEWERT—I accept your question about having a system that can be applied to Indigenous artists and non-Indigenous artists; however, the things that you are suggesting, I suspect, are not going to go far enough in terms of dealing with the issues of disempowerment that you have been talking about that are also articulated in other submissions. The two things

that I read out of your submission were the authenticity and the tax issues, and you briefly mentioned resale. There is also funding support, infrastructure support, the two funding programs that seem spasmodic at best. What are your feelings around and comments on those issues that others have also raised?

Mr Oliver—Again, with the resale issue I think any artist in the world will complain when a painting they did 20 years ago and sold for \$10,000 ends up at auction selling for \$2 million. That doesn't really bother me at all; I think that is an entirely separate issue. I think it is an important one and I think any regulation on that in the future should be for all Australians, not just for blackfellas. I know plenty of whitefella artist friends that that has happened to and we all have a bit of a laugh about it, really. If you buy a house and you pay the right price at the time for that house and it is \$200,000 and then in 10 years you can sell it for \$1 million, the thing is that the person paid the market price at the time, so to me that is not the issue.

It is an equity issue now, and about how unscrupulous people undermine equity; that is the issue. I don't care about there being private people in business. It is not about that. It is not about arts centres having exclusivity with artists either. Artists will naturally go to where the best deal is or they will do the other in dire circumstances. They know what they are doing. We have had discussions on these issues with our artists. They all know what they are doing when they do it. It is not like they do not know what they are doing.

If you have actually got a sort of paper trail, I think you will find that that might stop a little bit because it is a taxation issue. That is why I always bring the ATO back to the authenticity—and, when I say 'authenticity', people should not confuse that with a story about a painting and it is an authentic story. I am not talking about that at all. I am talking about a bill of sale, really. The ATO and the bill of sale are knitted together, aren't they? Sorry, what was the other issue you raised?

Senator SIEWERT—The other issue was: what else we can do to address the issues around disempowerment? In an authenticity system that deals across non-Indigenous and Indigenous art, it seems to me that Indigenous people are still at a huge disadvantage, because of remoteness and language and all the other issues—I will not go through them again—that you have listed. While I am not saying that I do not agree with your arguments about authenticity issues, I think there are other things that need to be done.

Mr Oliver—Of course there are.

Senator SIEWERT—What else do you think should be done?

Mr Oliver—We specifically focus in our paper on those two things. You are now asking outside the scope of the whole thing?

Senator SIEWERT—Yes, outside the points you have made to me.

Mr Oliver—There are so many things; where do we begin? Education is No. 1, starting with children. Arts centres—and God bless all the people that work in them—are a very tough job. They need more resources. They need more people to be able to work with them. Indigenous or non-Indigenous, I do not care; but the best person gets the job. I know with Cathy working at

Waringarri it is a different set-up than Jirrawun Arts; it is more of a traditional community based arts centre—overworked, underresourced. You end up having to be nurse—everything. I can think of a million things to help arts centres. I would have nutrition programs, I would have good food, and I would have people teaching people at the art centres how to cook, how to shop. There are so many issues that you could work around an arts centre, where you could get that help. It goes on and on really.

People burn out so quickly. Usually it is a three-year cycle. People come up with great spirit and idealism but by the time they actually learn everything they are exhausted and they are ready for the next lot to come in. Part of the secret is continuity—keeping that experience in the arts centre, giving longevity to that knowledge and actually having the funding there for that person that has that knowledge to be able to train other people. Continuity is important for any culture. The longer we know someone, the easier it is and trust develops.

There should be a program set up attached to one of the major universities or art schools in the country, whether it is Melbourne University or Sydney University or East Sydney Tech. There should be a training school for future arts centre directors. That school should have a curriculum that has lectures by people in the field who come in—Aboriginal artists. It would be a great postgraduate course for people who have studied the history of art or who are artists themselves. Those people then bring a Western knowledge to art and they start to learn, whether they are an Indigenous person or a non-Indigenous person—they have an art background. A specific postgraduate course could be set up to bring in lecturers and programs from people all over the country. Maybe in the future there needs to be a sort of standard before you go and work in an arts centre—you actually go out into the field before you get a job and work in them for a while. The current Aboriginal Corporations Act legislation is a dinosaur. That legislation was enacted in 1971.

Senator SIEWERT—Yes, and then amended last year.

Mr Oliver—Yes. That was a reflection of the time. It was a really great idea, but I think it is a very dangerous thing when you have committees. You must have literate people there somewhere along the line—numerate people. There is far too much dependency on the art adviser being the person that does all of that. At Jirrawun we became an Australian company. We have a diverse range of people on the board. They bring their expertise into areas that I certainly do not have expertise in. To think that one person can be the art adviser and know all about business management and know about accounting and know about entrepreneurial business things is ridiculous. It has put a lot of pressure on that one person.

We all have our skills and things we are not skilled in. We have tried to set up a very eclectic and diverse board that is bipartisan; it is not one side of politics but left and right. That is healthy. We have accountability in our company. It is an Australian company and it has to be audited. It has to first go through our treasurer, who is a very successful Melbourne businessman. Then it goes from him to the auditor. I appointed the auditor for our company. I wanted a very tough auditor, the toughest we could find, so I got De Castro & Sullivan in Darwin. They are the ones who did the audit on the Balangarri Aboriginal Corporation. You probably saw the *Four Corners* show on that. I got him because I wanted the most pedantic person so that no-one could ever turn around and say, 'Tony Oliver, you are robbing us.' We have systems in place like an Australian business where everything has to be made accountable.

Senator SIEWERT—Do you have a process of passing on your learnings to other groups?

Mr Oliver—We are at that stage now, because it has taken us a decade to finally have a studio to work in. When we started up there was no way that we were going to get any funding from the Australian government through ATSIC. There were very narrow definitions of who could qualify as an arts centre and what about those Aboriginal people who want choice or want to do their own ventures? It is very important that they have choice. I do not think the answer is all in one idea. I think it is a diverse debate. What Waringarri does and Warmun does is fantastic. What Kevin at Red Rock does is fantastic. He has had a long relationship with those artists. It is about accountability really—accountability, yes. Excuse me, but Freddie has to go to the doctor.

Senator SIEWERT—Thank you, Mr Timms.

CHAIR—Freddie, thanks very much for coming. It is an honour to be in your presence—a significant artist. Thank you very much. We will take up further your comment about authenticity. Thank you very much.

Senator SIEWERT—The authenticity process that you would like to see would be one that has a body so that the form is actually registered with a body that is nationally run.

Mr Oliver—Yes, and I believe that the tax revenue that the government will get as a result of this will pay for that body easily.

Senator PARRY—Has any modelling been done on it?

Mr Oliver—No. We have come up with some ideas but we do not have the full legislation written up, I am afraid.

Senator PARRY—That would help.

Mr Oliver—Yes, I would imagine that it is a thing that you download. Anybody can download it. The cab driver that wants to buy the painting for a carton of beer can download it. If he does not want to do that, it is a black market painting. If he wants to lie on it, let him get caught later on. That is where it needs regulating. It needs a policing body that will go into any gallery in the country, in the city, and go, ‘Okay, we want to see,’ and you will be able to track back.

Senator SIEWERT—Have I got this right? Generally—and not pointing a finger at anybody—it is dealers who are carpetbaggers. It is some of those who are undermining, for want of a better word, the centres and the genuine galleries rather than Joe Blow off the street going to somebody?

Mr Oliver—Yes. What is a dealer? There is no certificate to be an art dealer, so anyone can be an art dealer. You do not have to go to art school to be an art dealer; you could run a fish and chip shop or drive a taxi and be an art dealer. There is no qualification, which I think is a bit of a shame really.

Senator SIEWERT—I suppose what I am getting at is that, if it is your taxi driver who downloads it and does it on the black market, if it is somebody just buying—not that I think it is appropriate—it is not those people that we really want to catch, is it?

Mr Oliver—Yes, I think you do. I think you want to catch the big fish and the little fish, because you will find that the little fish and the big fish are joined together anyway. They are in the same pond.

Senator SIEWERT—I suppose what I am thinking is that, if someone is taking it home to hang on their wall, we are unlikely to catch them. That is where I am coming from.

Mr Oliver—Yes, but that is okay because that does not have provenance. It might go up to 100 grand in 10 years and they want to put it in an auction and collect, but they do not have provenance. Sorry, it is a black market painting and it has no provenance. I would regulate and make that part of the legislation with the auction houses. Unless a painting has provenance, it cannot go into an auction.

CHAIR—You can forge a certificate.

Mr Oliver—You can, but then you are committing a crime, aren't you? You are willingly committing a fraudulent crime. At the moment there is nothing, is there? There is actually nothing. There is no vehicle at all. There is no accountability at all at the moment.

Senator PARRY—If it is paid it could be passing it off under trade practices.

Mr Oliver—Yes, that is right. So my feeling is that at least there is something.

Senator SIEWERT—But, Senator Parry, that is the point. I think that is the point that the NT government—I have read so many submissions sometimes I forget who says what—makes: that prosecutions are not being followed up under Customs or trade practices. They make that fairly strong point in their submission.

CHAIR—So what confidence do you have that some other federal government or state government body would effectively police these things?

Mr Oliver—Obviously it is federal legislation, so it comes under the federal jurisdiction, doesn't it? So it would be a federal policing body that regulates it and polices it.

Senator MOORE—Through DCITA?

Mr Oliver—I do not know.

Senator MOORE—Through the department of arts?

Senator PARRY—It would probably still be the ACCC, but what we will have to find out—and we will get this as part of our inquiry—is the number of cases that have been reported. If there is only one case reported and there was no evidence, I do not think we could be harsh. If

there have been a thousand cases reported and nothing has been done about it, then we should be harsh.

Senator SIEWERT—But the other point, as I understand it, being made is that it is hard to get the evidence. With this system you would actually have the evidence.

Mr Oliver—You do have the evidence or the non-evidence. The black market is about non-evidence.

CHAIR—How would this operate internationally?

Mr Oliver—That is a good question, isn't it?

CHAIR—Perhaps you would have everyone selling overseas rather than Australia because there would be no follow-up.

Mr Oliver—I think I might call on our lawyers to—

Senator SIEWERT—I wonder whether other Indigenous peoples in other nations have similar systems. Are you aware of that?

Mr Oliver—I think that is a good question again. Let us face it: a carton of beer—it is a pretty wicked thing and I know that happens. Like in the case of one of our artists in Derby a few years ago—and I totally understood the situation. At that point I was the only person with our organisation, so if I went away on holiday there was no-one there. The artist is always with me when I am around. He went off to Derby to see family and he was set up.

It was quite funny in a way, because last year a catalogue came out from Lawson Menzies and a painting of his is on the front cover for so many thousand dollars. The old man says, 'Did you paint this painting?' He is an honest man and he said, 'Yes, I did paint that painting.' I said, 'It says Derby here' and provenance does not say where it comes from. I knew who had done it. He said, 'That fellow so-and-so, he got me with my old mate down there in Derby and I was seeing family down there.' I said: 'It's got estimated price here something like 20 grand, old man. That's what they're selling it for.' He looked at me and he said, 'They only gave me some tucker for that picture.' It is so immoral and unethical.

Senator SIEWERT—That was last year?

Mr Oliver—That was last year. This is where this piece of paper would be good.

CHAIR—Are you aware of any other country having this sort of system?

Mr Oliver—I know if you go to New Guinea—you are talking about the exploitation system?

CHAIR—No.

Mr Oliver—The regulating?

CHAIR—Yes.

Mr Oliver—No, I do not.

Senator SIEWERT—We are going to have to find out what countries do.

Mr Oliver—I would look at Holland because they are pretty advanced with artist royalties on resales and artists and things like that. If anyone has got it, they will have it.

Senator SIEWERT—The Arts Law Centre will probably have an idea, won't they? We should ask them.

Mr Oliver—I do not know. I think why can't Australia be a world first anyway?

CHAIR—Indeed.

Senator MOORE—We are just about out of time, but two things I have been asking everybody is, one, how different organisations coexist in a community like Kununurra and how it works, and secondly, what do you want to get out of the inquiry?

Mr Oliver—Cathy, Ken and Freddie at Waringarri—we like Waringarri a lot and interaction is good. We do different things, but there is a really supportive culture there. Kevin is the same. We have never had a problem with Kevin. He has never tried to undermine our organisation. He respects it, and we would never dare do it with his. Certainly with Warmun, Meagan and Amon, we are friends. The artists are all interrelated anyway; everyone is family in a way. I do not think this is a black fellow problem. I think this is a white fellow problem, this whole problem we have got.

You said any other things that I imagine. Well, gee, I imagine a lot of positive things. I would like to see the equity there for Aboriginal people. I would like to see Aboriginal people having the same conditions as non-Indigenous artists. I would like to see equity so Aboriginal people have more choice and can do what Paddy did and go to hospital, do what he wants to do and not be at the mercy of the underfunded local health system. It is not the health system's fault at all. It is not the doctors. They are up against it, as are the nurses here. They are overworked. They do not have the equipment. They do not have the specialists flying in. What can they do? I would like to see—I think the equity problem of Aboriginal artists and the taxation issues, I think that can lead not just to good outcomes for Aboriginal people, but also for our whole community here, black or white.

I do not believe in segregation. I believe in a collective; I believe in a Vietnamese-Australian, or a Chinese-Australian, or an Aboriginal-Australian, or an Italian-Australian. I do not think you have to give up the base of your culture of who you are. That is what is good about our country, that it is not monochrome. It has got diversity. This is where people get confused. I am not talking about assimilation at all; I am talking about Aboriginal people understanding and being able to manage their affairs through education. It is not about them giving up any of their culture, it is about them being able to have the same rights and conditions as all Australians. That is all I am saying.

Senator MOORE—So what happens when you say this to DCITA?

Mr Oliver—Which department?

Senator MOORE—Communications, Information Technology and the Arts.

Mr Oliver—This is down in Canberra?

Senator MOORE—Yes, the funding body, because I am sure that you have expressed your views, Mr Oliver.

Mr Oliver—Yes, I have.

Senator MOORE—So you have done that. So what happens when you express these views?

Mr Oliver—They were really interested and they wanted to actually come up here.

Senator MOORE—Have they?

Mr Oliver—Indirectly they probably have. I believe that all Australians have got the best intentions for Aboriginal people. I do not think that is an issue. I think people want Aboriginal people to have equity and to have choice and to get away from welfare based thinking. Of course everyone wants that. I certainly want it; you want it. You went to the house today. It is not a flash house that we have got there, but that house has been a good workhorse and it was like gold to us coming from Crocodile Hole and Bow River and living in those conditions. Freddie lives in that house and he has lived in that house for five years. He can go home and he can put his air conditioner on and he can watch a movie and he has got a space that is his and he is safe in. A lot of his mates do not have that space and he will often say to me, 'I feel so sorry for my mates because I am actually lucky.' I say, 'You are not lucky, mate, you have worked for that.' That is the niceness of Aboriginal people because he actually wants all of his mates to have that. That is like the Hilton compared to what a lot of people have—he knows that and I know that too. It is a very hard life for people out there in those communities. I understand why this is all happening. It is about needing—

CHAIR—Changing track, you mentioned in your submission about getting young people involved in art. Have you any suggestions there? Is there any way governments—heaven forbid—could help? Do young people around here think that being an artist is a real job or do they think it is a bit of a—

Mr Oliver—I can't really answer that on behalf of young people. As I said earlier, with the art centres or with the school—the state school or whatever—it is a really good idea to integrate. It would be great if there were programs where practising older artists were working with younger artists, not just in the art centre context but in the state education context too. It is good for non-Indigenous kids too to experience that from a young age. I have had all sorts of crazy ideas about that, but you can only do so much. Obviously Aboriginal children are at a bigger disadvantage than the white kids are here—that is obvious. At the end of the day if you are a white person in Kununurra and you want your kids really seriously educated, you are still thinking, 'I'm going to have to send them down to Perth or Darwin or Melbourne to get their secondary education.' I

think in the long term we should really be sitting down—everyone sitting down together, all the elders and government—and start thinking about building some regional schools that are not just for Aboriginal kids but for all kids up here.

There is so much pressure on the old people looking after children, and it would be a fantastic thing to have an education for children in country where they are not taken away from their parents, but also that those schools were for everyone and you could educate the kids. They could grow up together; they could have an education two-way. It would be pretty fantastic if white kids started learning Aboriginal languages as well at a young age. So that is going to break down a whole communication problem, racism or whatever. I think all kids have a hard time up here. Aboriginal kids have a very tough time up here. Education is the key always to everything. I am not talking about a mono-European, Eurocentric idea of education but about actually creating some fairly major regional schools which can also have a boarding facility attached so that kids can actually get three meals a day and not be walking around on the streets at night. If they do play up, the magistrate actually has an alternative: 'I am going to make you go to school for 12 years.' You are not going to be torn away from your culture because your family and elders are going to be involved in that school and they are going to be teachers there too. I think we have to start thinking like this.

Senator MOORE—How old is your youngest artist?

Mr Oliver—Our youngest artist is eight.

Senator MOORE—That is wonderful.

Mr Oliver—Yes, but it is an area that we need to really develop because we have built the elders, and they are getting older to build the infrastructure, so we are now coming to the point where we can now go to our next level which is the young.

CHAIR—Tony, unfortunately time is going to beat us again. Thank you very much for your submission. There are a lot of philanthropists in the Indigenous art area, but I think Arnold Bloch Leibler have done a great job too. I think it is worth recognising from your submission that they obviously do have an interest and it is good to see them getting involved.

Mr Oliver—I thank them too. Thank you, Senator, and thank you all for coming.

CHAIR—Thank you again for showing us this morning. Next time we come we will look at the new place.

[1.37 pm]

COCK, Ms Annette Joy, Warlayirti Artists Aboriginal Corporation

CHAIR—Ms Cock, thank you very much for coming on behalf of the Warlayirti. I understand you have come a long way, and not without difficulties, to get here, so we very much appreciate that. You have put in a submission and we invite you either to speak briefly to it if you would like to or otherwise we will just start on the questions. For the record, I want to remind you that if there is anything you want to say in confidence we can go into an in camera hearing. I also remind you that the evidence you give here is part of the Senate process and so you are protected by parliamentary privilege. Is there anything you would like to say before we subject you to the grilling?

Ms Cock—Please go on, I am quite ready!

Senator SIEWERT—You make a comment I want to clarify in your submission about the use of photographs and that it could contribute to bad dealings. It says:

A fascinating activity which draws out artists level of knowledge about unscrupulous activity and how they understand how photographs of their work can contribute to bad dealings.

Could you just take us through that?

Ms Cock—We recently had a meeting with the committee after we had some private collectors come in who were major collectors. They did not get permission from us to record the artists—the voice of one of the artists who is a significant artist and who is now deceased—and that person also brought their own private photographer who took photos of that artist after I requested that they did not do that. So we had a meeting with the committee about the whole photography issue. Our committee expressed their concerns about people coming into the community and taking photos of their children because a lot of the children out at Balgo go bush way, which is naked, so they were scared that nude photos of their children could possibly be put on the internet—which I commended the community for being aware of. There were other things such as people perhaps using those images of their paintings and maybe not going through the right copyright procedure. It was very multilayered and they were really aware and really quite strong about not wanting people to take photos of them or their community at large.

Since that time we have tried to address this situation with people coming into the community. We have expressed to anthropologists that it is not permitted to take photos in the art centre, that the artists in the community do not want this to happen, and they have replied by saying things like, 'I can just go outside and take a photo.' The situation at the moment with Balgo is that, yes, they can, so we have had to concede. We try to inform the artists right at that point. Fortunately, a lot of our communities speak language as first language. Often they do not know what people are saying. Because of history, a lot of Aboriginal people are quite scared of saying no to someone, so they are quite compliant. People often take photos of people in the community, and we are constantly trying to search for evidence where tourists have come in and then posted these photos of people in the community on websites. Those people have not been given

permission for that to happen. We are trying to look into the example that they have at the Garma Festival. It would be a really great system if all communities could adhere to a system that has been set by Garma. If you agree to go to Garma, you also agree that the copyright is owned by the Indigenous people who own that land. What we are trying to do at the moment with the inter-agency meetings is to solve that in the sense that that is signed off on our permits. You do need a permit to come into Balgo.

Senator SIEWERT—Were the people who came in private collectors?

Ms Cock—They were private collectors. They did have a permit. They are very highly regarded international collectors, and it was very difficult after they had purchased \$100,000 worth of work to say, 'That is not appropriate.' I asked the photographer who gave me a sign-off form to leave the form with us. I said that we would look at it and that we did not make decisions on the spur of the moment. That photographer then went to the director, who was doing money morning. She had about 100 people standing around her while she was working, and when Sally was unable to follow through on that, they then went directly to that artist to get them to sign-off on it. As far as those copyright issues are concerned in Australia, if someone cannot understand the document, cannot read English, then it is not a legal document, but I do not know if those same laws apply outside Australia. It is very difficult for arts centres to monitor these types of things because we are monitoring multi copyright issues at all given points.

Senator SIEWERT—So the collectors get permission to come in, but then they do not seem to know that there is a set of cultural understandings and rules?

Ms Cock—Yes. We explain to them the basic things, like that whole thing about being afraid that their children will be exploited, and people get very angry. As I said, the response has been 99 per cent negative. People say: 'I have been coming here for a long time. It is my right. Who are you to tell me, you white person, that I do not have the right to come here and take a photo of this person?' There is white racism in communities everywhere.

Senator SIEWERT—You were saying that part of it could be addressed by the council through a permit system.

Ms Cock—Yes.

Senator SIEWERT—It seems to me that there also needs to be an education process, that if you apply to go into a community you get a pack that says, 'This is what is culturally appropriate.'

Ms Cock—Yes, that would be a fantastic document or pack to provide to people.

Senator SIEWERT—Have you heard about this issue happening in other communities?

Ms Cock—I think it is fairly widespread. Because Balgo is an isolated environment, because the Indigenous people there lead quite a traditional life, because the arts centre is famous for its artists and because the culture is very unique—all of those things—it draws a lot of people to the region who come to learn and to take information away. We are constantly trying to filter who those people are, what their purpose is in coming and whether they are going to sign off on

things. Most people do not want to sign off on anything to any of the agencies. I had an anthropologist from Canada who came in, and in the end I think it was through intimidation that she complied with going and getting a permit to even be on the community. She claimed that, due to the fact that she had written a book and that she was a friend of Bai Bai Napangarti, that she had the right to be there and to interview Bai Bai and take photos of her work. But Bai Bai does not read English. There was a bit of a conflict of interest with regard to that anthropologist. That anthropologist was there to do work, and the conflict of interest was with regard to the confusion for an Indigenous person to understand that person's actual purpose for being there. With regard to our position, we are there to take care of the legal issues of our artists and it has been the case that anthropologists who have come and studied communities are also used by government to actually prove that they do not have providence over that land, that the anthropologist's word is more valuable than the traditional owner's.

Senator SIEWERT—I am getting the impression that there is a lot of pressure on the community to show and tell and to actually have control over their own decision-making about their art and who comes into the community as well.

Ms Cock—Yes.

Senator SIEWERT—I have been to Balgo so I know how hard it is to get there. Do you get people just turning up?

Ms Cock—You do. You often get people just showing up. We had a notorious carpetbagger from Perth show up and walk into the arts centre with a canvas that he had provided one of our artists with. He was putting pressure on our artist to go up and ask me for paint so that she could finish his canvas. I just basically watched over that person, and as soon as he got in his car I got in mine and followed him to see where he was going. I had rung the police and said: 'This is the situation. This person is here. He hasn't got a permit. He is here actually encroaching on our artist.' The police could not attend to that at that moment because there were a lot of other things going on, so I had to personally make sure that that person was escorted out of the community.

Senator SIEWERT—And presumably that person did not have a permit?

Ms Cock—That person did not have a permit, because I asked.

Senator MOORE—A number of submissions have talked about the more effective use of permits so that the protection and the integrity of community art are the threshold issues for whether or not people are issued with a permit. You have mentioned Balgo and you have just described the situation where you knew someone was coming in without a permit. Has there been any time when a permit has actually been refused because there were questions about someone's credibility, about what they were going to do with artistic endeavours?

Ms Cock—Not since we have been there. The people who come to the community who do obtain permits are usually there to operate in a very ethical manner.

Senator MOORE—So if the elders in Balgo who issue the permits, had a question, would a recommendation from the arts centre be the kind of imprimatur that would be taken into account with regard to the issuing or not of a permit?

Ms Cock—Most definitely. The situation in Balgo is that the elders do not issue the permit.

Senator MOORE—Who does?

Ms Cock—The arts centre issues the permit.

Senator MOORE—The art centre itself. I thought it was the community. So the art centre issues the permit—so in that case your word would say—

Ms Cock—For people applying to us. So we can filter out the types of people that we do or do not want to come in to the art centre.

Senator MOORE—Have you done so?

Ms Cock—As in filter people out? Not as yet because we have been there for 12 months and it has taken a certain period of time to find out who the prospective danger people are. People do come to the community unannounced and just drive in.

Senator MOORE—I am referring to your own submission where you said ‘notorious carpetbagger from Perth’. How do you know and how did you know the notorious carpetbagger—the person you identified as such—was coming?

Ms Cock—I did not know he was coming.

Senator MOORE—So you just knew him when he came—you knew his business ethics were not great.

Ms Cock—Yes. I had been informed by other art centre managers who to look out for.

Senator MOORE—So the network was actually working; the network was giving you information about who had earned the stripes and who had not?

Ms Cock—Yes.

Senator PARRY—On that, how did you know that person was a notorious carpetbagger; by direct dealings or word of mouth?

Ms Cock—It was word of mouth. It was not through my direct dealings, but it was evident at the time that he came in with the canvas. It was his own canvas; it was not a Warlayirti canvas. I asked him what his purpose was for bringing this canvas in and he had claimed that the artist had painted him a painting and he was returning it to the art centre. There was a lot of hovering going on and then it was suggested that I should provide the paint for them to finish that painting and I suggested that we put the painting away for a while and we would come back to that and look at that issue later.

At no given point should you make a hasty decision about those things. It was just observation. I had to sit and watch and see what that person was doing, and why did he arrive with our artists and that family who did arrive with him are notorious for coming and getting

materials from the art centre. You probably would not know how our system works. The artists provide the materials through their percentage that they give to the art centre and anyone can come and ask for a board. It is up to us to make sure those boards come back. If they do not come back, then we know that certain people might be onselling to other people. I just want to quickly touch on another note. If we need to talk about it in any more depth than what I am about to say, then I would like to go in camera. On my arrival to the art centre, I started to glean from the artists who were not bringing boards back that a state government employee at Balgo was buying work from the artists.

Senator PARRY—Did you report this?

Ms Cock—I live in a small community and the ramifications in the Kimberleys, one government employee links to many, I had to be very careful with how I approached the situation.

CHAIR—I just wonder whether you would rather talk about this in camera?

Ms Cock—Okay.

CHAIR—Please yourself. We might come back to that.

Senator PARRY—At the very end. How far away is Balgo from here?

Ms Cock—We are eight hours south—

Senator PARRY—Driving?

Ms Cock—Driving, yes.

Senator PARRY—So roughly between here and Perth the way the crow flies or not quite?

Ms Cock—If you went to Balgo and then went to Alice Springs, it would be the same distance both ways.

Senator PARRY—So you have another unique area. Are you aware of exploitation of artists apart of from what you have just described?

Ms Cock—Other forms of exploitation of artists are exploitative practices such as invasion of copyright issues. So that is one area where we find quite often that occurs. People either disseminate images and re-use them or they might publish images of the artists without permission. So it is very complex in regards to that issue, but that is another area that Indigenous people are being exploited. Just recently we had a case where someone who has been working with Warlayirti artists for 14 years has published their flyer for their business and they have quite honourably paid copyright of \$550 to use an image of a photo at the art centre. Most of our issues in regard to those publication issues nowadays, we just put them straight on to this copy.

Senator PARRY—You have stated in your submission that you have about 400 artists on the books.

Ms Cock—Yes.

Senator PARRY—There are 200 who regularly paint. At an annual turnover how many of those artists would have an income returning to them in excess of say \$20,000 a year? Would you have many that would have that?

Ms Cock—Probably eight per cent of those artists receive an income over \$50,000. Those artists that receive those moneys over that amount are usually elders and the distribution of those moneys are given to all family members, and most of those old people only keep \$200 a week for food.

Senator PARRY—Is that by their choice?

Ms Cock—It is not by choice. There have been situations where if an artist does not give family members money, they have been bashed and they have been locked out of their houses.

Senator PARRY—Have you witnessed this, or is this what you have heard?

Ms Cock—I have.

Senator PARRY—You have witnessed this?

Ms Cock—I have. Because the traditional way is really strong up there still, it is not uncommon to see a nulla-nulla taken out.

Senator PARRY—You would be one of the largest art centres in Australia for Indigenous art; is that correct?

Ms Cock—Yes.

Senator PARRY—Would you be the largest?

Ms Cock—I imagine Papunya Tula is larger than us.

Senator PARRY—So there is obviously a physical requirement for the passing on of these moneys. We have heard evidence from others today that money must be passed on to other members of the community and yours is probably the strongest to suggest that it is not necessarily voluntary. How do you pay your artists; do you pay cash? Do you have other arrangements for paying your artists?

Ms Cock—It is through cheque, purchase order or direct debit into their accounts.

Senator PARRY—Who makes that decision?

Ms Cock—The artist does. So all moneys—when the painting is purchased, 60 per cent goes immediately into the artist's account which is in a program that we have, and then on money

morning they come in and they distribute that money throughout their family members. They distribute money all throughout the desert right up through to the Kimberley.

Senator PARRY—How do they physically do that; via cash, goods?

Ms Cock—It is rarely cash. Sometimes it is goods. Sometimes it is direct debit.

Senator PARRY—How do you know this takes place? Is it through hearsay or through your direct knowledge; do you physically see cash going or cheques going to other entities or other parties?

Ms Cock—Yes, I write them too.

Senator PARRY—That is the sort of evidence we need. So 60 per cent goes back to the artist and there is the commission.

Ms Cock—Sixty per cent is directly to the artist and 40 per cent goes towards running the art centre.

Senator PARRY—Are you strictly on a commission basis or do you have any other arrangements? Do you acquire work and then onsell that work?

Ms Cock—No.

Senator PARRY—So everything is commission based?

Ms Cock—Yes. What was I going to say?

Senator PARRY—Sorry. You were explaining about how the 40 per cent is spent within the centre.

Ms Cock—Yes, 40 per cent runs the art centre. I don't know if you are aware that the art centre is the only Indigenous owned business on the community, so it is a really central money distribution point. There is a lot of pressure on the art centre and the artist at all times to provide money for the community. It is the key—

Senator PARRY—Revenue source.

Ms Cock—Revenue for people living in a very remote community where it costs a lot of money to go anywhere. Tradition says that they have to travel to sorry camps and other family commitments, so that money is essential to the continuance of cultural practices.

Senator PARRY—We have heard evidence today that the cost of living is very high here. Is the cost of living proportionally higher again where you are?

Ms Cock—For example, we have an art centre that is not much bigger than this section here, just from halfway down that room. Our electricity bill for a quarter was \$18,000.

Senator PARRY—Good grief. There are quite a few more questions I could ask but I know we are running very tight on time.

CHAIR—We running very short on time unfortunately. You mentioned CDEP and we were talking to your colleague in Kununurra about the same thing. You say it is good and bad and I understand the good bit. Is there a solution?

Ms Cock—I think with CDEP perhaps if there was a continuance of the old system. What we are finding is that if the people in the community travel to sorry camp 1,000 kilometres away and if they do not show up for work after two weeks they get bumped off CDEP and they are unemployed. That then further puts pressure on the art centre and it also puts pressure on artists to sell work in Halls Creek.

CHAIR—We were talking with your colleague about the fact that under the new arrangements the maximum is a year in any case. We were wondering whether there was some scheme where some other arm of government might be able to provide training funding as opposed to CDEP. I suspect the CDEP is gone forever in its old form. It has had unintended consequences in some areas and I was just wondering—

Ms Cock—I do believe that is the case. What we are seeing currently is an increasing interest by the young people in cultural practices—we are just starting our culture centre and the program is focusing on documenting cultural practices through multimedia, documentary making and film. Because Aboriginal people die at such a young age, we have seen a huge gap and loss of culture, especially within the men of the community. What we are experiencing currently is that by introducing these mediums—the kids love anything to do with modern technology—they are now looking through the lens and they are looking at these old people and they are starting to ask the questions and pay attention. We also believe that this can be an income generating stream. How we have set the culture centre up is an example of where things can help. The culture centre is funded, it has two positions. We have decided to employ a full-time operator of the culture centre and introduce four outside projects a year where people come in solely to teach skills. They are not people that come in to take information away from the community. They are coming in to teach recording skills, photography skills, lighting skills, writing skills—all of the new forms that hopefully can create a revenue for people in the long term. If you look at training, I would highly recommend that training be in any modern, multimedia kind of format.

CHAIR—Do you have much interaction with the other cultural centres around the state?

Ms Cock—I have done so, but it is not huge.

CHAIR—We have asked your colleague to get back to us with some suggestions on the CDEP because I think there may have been unintended consequences of the change in arrangements recently. Perhaps if you had any thoughts on that you might contact your colleague and incorporate any thoughts you might have in the submission that hopefully she will make to us. If there is a solution, we might like to have a look at it and recommend it to government. Very briefly—we have run out of time—you have heard some of the evidence about the certificate of authenticity. Do you think it is a good idea, bad idea, practical, impractical?

Ms Cock—As far as the title, I think it is an archaic and racist way of describing provenance. If it is a certificate of provenance, then yes, I think it is appropriate, but to say ‘authentic’ to Aboriginal people about Aboriginal people I think is really an antiquated term.

CHAIR—This is for everybody, not just Indigenous people.

Ms Cock—I believe that the certificate is a way of explaining to white fellows that it is all right to buy Aboriginal people’s work. Aboriginal people don’t paint like European people. They paint, they teach the young people—

CHAIR—That is not the idea. The idea is to put a paper trail in place—as I understand the proposal, it is not just for Indigenous people but for all artists. It has a buying date and time and price, but as it passes on there is some bit of paper that can be followed that suggests that—

Ms Cock—I do not think it is necessary. The only reason why a certificate was established was because of the misunderstanding—I do not think that all art needs to have a certificate; I think a receipt of sale. If there was some way of tracking carpetbaggers in regard to how much they are buying artwork from the artists and how much they are selling it for, and they are cash cows. What is happening in there is a big blind spot.

CHAIR—Could I ask that you might look at Mr Oliver’s evidence when the Hansard record is out on this—you can get it on the internet. Were you in the room when Mr Oliver gave evidence?

Senator MOORE—The last person.

Ms Cock—The last person, yes.

CHAIR—Did you hear him talk talking about this?

Ms Cock—I did. I do not believe that a certificate should be overlaid in regard to all art. I believe in a receipt of sale, but a certificate is being constructed to actually separate Indigenous art and empower the art centre—

CHAIR—Sorry, I have to interrupt you because we have run out of time and we have to deal with this other issue that you raised earlier. Do you get the internet where you are?

Ms Cock—Most definitely.

CHAIR—Could you have a look at his transcript and if, having re-read it, you have any thoughts for or against could you drop us a line?

Ms Cock—Yes.

CHAIR—I have to say he made a bit of sense to me but you are giving a different perspective, and others this morning gave different perspectives too. But if you would have a look at his evidence and if you do feel strongly about it one way or the other, drop the secretary a short note.

Ms Cock—Okay.

CHAIR—Thank you very much, Ms Cock, for coming in. We do acknowledge it is not easy in one of the remotest areas so we very much appreciate you coming along. The public session is now concluded and we will have a short in camera hearing. I thank everyone for their attendance.

Evidence was then taken in camera—

Committee adjourned at 2.17 pm