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Official Committee Hansard

SELECT COMMITTEE ON SUPERANNUATION

Reference: Choice of superannuation fund

THURSDAY, 19 FEBRUARY 1998

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SENATE

Thursday, 19 February 1998

SELECT COMMITTEE ON SUPERANNUATION

Members: Senator Watson (*Chair*), Senators Allison, Conroy, Chris Evans, Ferguson, Godd and McGauran

Senators attending the hearing: Senators Allison, Conroy, Chris Evans, Hogg, Sherry and Watson

Matter referred by the Senate for inquiry into and report on:

The introduction of choice of superannuation fund and the need for education of employees and employers about the implications of choice, including investment choice.

The Committee's inquiry is to include, but not be limited to, the provisions of the Government's legislation on choice of fund.

For the purpose of the inquiry the Committee will take evidence from the public, superannuation providers, employer and employee organisations, consumer groups and Government agencies, and conduct public hearings as appropriate.

WITNESSES

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Committee met at 9.09 a.m.

CHAIR—I welcome everybody to this public hearing of the Senate Select Committee on Superannuation. This is the third public hearing on the committee's inquiry into the choice of fund. The committee's terms of reference for this inquiry are as follows: the introduction of choice of superannuation fund and the need for education of employees and employers about the implications of choice, including investment choice. The committee's inquiry is to include, but is not limited to, the provisions of the government's legislation on choice of fund, as contained in the Taxation Laws Amendment Bill (No. 7) 1997.

The committee's formal reporting date is 14 May 1998. However, the committee will present a report on the legislation to the Senate on 23 March, following a commitment by the opposition and the Australian Democrats not to delay the bill.

This legislation gives effect to the government's policy to give employees greater choice as to the complying superannuation fund or RSA to which employer superannuation guarantee contributions are to be made. Employers essentially have three options for satisfying their choice of fund obligations. These are to make limited choice offer of four specified types of funds and RSAs, to make an unlimited choice offer under which the employee selects the fund or to enter into an AWA—workplace agreement—or certified agreement. Workplace agreements may include formal certified agreements and specified types of informal agreements.

The choice of fund is to come into effect, according to the legislation, on 1 July 1998 for new employees and 1 July 2000 for continuing employees. This legislation overrides federal award provisions and employers who employ people under federal awards must offer choice of fund to their employees.

A number of submissions to the inquiry have also stressed the government's proposal that superannuation no longer be an allowable matter under the Workplace Relations Act. This matter is not strictly within the terms of reference. However, the committee has decided to allow witnesses to present evidence on this matter. It is probable that legislation to implement this change will be referred either to this committee or to the Economics Legislation Committee in the near future. However, witnesses and members of the committee should bear in mind that this inquiry is about the choice of fund, and attempt to limit their remarks and questions accordingly.

Before we commence taking evidence, let me tell you that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee and evidence which is given before it. Parliamentary privilege, for those who have not appeared before a committee before, means special rights and immunities attached to parliament or its members and others necessary for the discharge of functions of the parliament without obstruction and without fear of prosecution. Any act by any person which operates to the disadvantage of a witness on account of evidence given by him or her before a Senate committee or any other committee of the Senate is treated as a breach of privilege and accordingly you are protected.

[9.12 a.m.]

MARTIN, Mrs Helen, Councillor, Institute of Actuaries of Australia, Level 7, Challis House, 4 Martin Place, Sydney, New South Wales

RANKIN, Mr Ronald Jock, Executive Director, Institute of Actuaries of Australia, Level 7, Challis House, 4 Martin Place, Sydney, New South Wales

TROWBRIDGE, Mr John Roy, President, Institute of Actuaries of Australia, Level 7, Challis House, 4 Martin Place, Sydney, New South Wales

CHAIR—It is now my privilege this morning to welcome people who are well known to this committee. I look forward to hearing you speak to your submission. Following that, members of the committee will ask questions. Please feel free to comment on any remarks made earlier to this committee or on submissions made by other people that you might feel are relevant. This is an opportunity to reflect on some matters that may have been raised by other witnesses. We appreciate your interest in the committee's work because, after all, in so many respects you are really at the cutting edge of so many of the superannuation debates.

Mr Trowbridge—Thank you very much, Senator. We are very pleased to have the opportunity to be here today. Helen Martin, who is a councillor of the Institute of Actuaries, is my right-hand man, if I can say such a thing today, because she is more of an expert than I am in a lot of the details of superannuation.

The Institute of Actuaries is very interested in the conditions under which member choice will work successfully for the consumer. That is our primary interest. We have two main issues that we want to emphasise to you and which have been put in our submission. They are the desire to have the introduction of the legislation delayed for new entrants to super funds. Our first point is that we want to see the introduction deferred until 1 July 1999 or possibly even 2000, which is the date for existing members. Our second point is that we would like to have a disclosure regime which is simple, uniform and clear for consumers to understand, and that regime needs to be applicable to all providers to allow comparison of funds.

To go back to my first point about the desire for delay: there are a couple of major reasons. Firstly, providers are not ready—providers being, essentially, fund managers, employers and, in respect of RSAs, banks—to introduce choice because the legislation is not in place. We think it is essential that the legislation be in place before providers do the preparation needed.

Secondly, and perhaps more importantly, consumers are not ready. It is too important an issue to go into without proper preparation. There is a major education campaign needed, we believe, by providers, employers and the government: a campaign which is intelligently and carefully developed and conducted so that informed choice can be given to consumers. If people make poor choices, then the whole legislation and the whole idea of member choice may be compromised. That is the issue about timing. We think that is very important.

Regarding the disclosure regime and the need for simple, clear, uniform disclosure, consumers need the ability to understand what is being offered. Clearly, that is part of the campaign of introduction, but it is also part of the continuing execution or operation of member choice. The design of key features statements is critical. Our profession feels strongly that the proper direction is not to let the market—that is, the providers—decide how to prepare key features statements, but to have a set of standards and requirements that providers must meet and that are carefully thought out so that consumers will be able to understand and make worthwhile choices.

There are a few other details that we are interested in, such as the linkage between the super guarantee legislation and choice of fund legislation, and certain aspects of penalties to employers, and there are some other details. But the two main ones that we want to put to you are the desire to have it delayed so that it can be properly implemented, and to make sure that the implementation process, through the key features statements, is effective. That is the essence of our presentation.

CHAIR—Mrs Martin, would you like to add to the matters in your submission?

Mrs Martin—There is nothing in particular. John has made the key points. We will leave it to you to ask any particular questions that you might have on anything in our submission or anything that John has said.

CHAIR—Mr Rankin?

Mr Rankin—To underline what the president has said, if choice is not properly exercised, there will be no net benefit to the individuals trying to accumulate savings for their retirement, and no net benefit to the nation. If choice is poorly exercised, individuals and the nation will both be the losers. There is plenty of evidence to suggest that, without the capacity to make informed choices—that is, without addressing this asymmetry of information problem—people are likely to make poor choices. They will make choices which are either too conservative for their personal circumstances or too risky for their personal circumstances.

That is why the institute is adamant that people must have access to information that enables them to compare superannuation in a master fund with superannuation in an industry fund and with superannuation in an in-house, employer sponsored fund, et cetera. If they cannot compare them sensibly across the board and make a reasonable comparison about where they are going to be better off and what their longer-term needs are, choice will fall in a heap.

CHAIR—Is this possible, given the complexities and the wide differences between the sorts of products that are going to be offered? For example, in an RSA, some of your management charges may be reflected in a lower interest rate. How can you easily convey that sort of message in a statement to ordinary people?

Mr Trowbridge—It is difficult, but that is the challenge. If we are to have effective member choice, we need to make the very best efforts we can—‘we’ being the people collectively involved: the ISC, the providers and other parties who are able to exert an

influence on how it is done. The challenge is to do that effectively. I do not think anybody is expecting a perfect system. We are simply making the point that the right expertise, the right resources and the right endeavours are needed to maximise that position. I do not think there are guarantees.

CHAIR—How long is it going to take for you yourselves to work out a particular presentation, present it to the ISC and the other collective bodies and then pass it on to the government for it to be in a regulation?

Mr Trowbridge—We do not think that it is possible before 1 July 1998, but we do think it is possible to achieve that by July 1999—if the legislation is going to allow deferral of commencement until that time.

Mrs Martin—The institute has already made a quite detailed submission to the ISC on their discussion paper on key features statements, actually proposing two alternative methods for coming up with a method of comparing funds that allows for fees and differences in interest rates. They are just two possible alternatives; there may be others that we could canvass. There has already been a reasonable amount of work done, but obviously there is still quite a lot of the discussion process with the ISC to be gone through, and then there is the getting of that through the relevant government processes before it can be implemented. I guess it is possible to develop methods, but it will take a little time. We are already starting to work with the ISC on that.

CHAIR—You say it is ‘possible to develop methods’. Explaining something to an informed group may be relatively easy, but do you think that this can be communicated to people that are not in the normal sense employers or that are very small employers? We have got to convey this choice, particularly to the vulnerable. We had evidence yesterday from a group of parents that formed little preschool associations across Victoria and actually employed people. In some cases, they were not even aware of Workcover. How are we going to get messages down to these sorts of almost voluntary groups of employers who will, if they employ people, have obligations in terms of choice?

Mr Trowbridge—Without being able to answer that in detail, our advocacy of required standards for key features statements is part of the attempt to respond to that question. The other part I mentioned was the importance of a major campaign during the course of introduction of member choice: some form of joint venture, if you like, between the providers, the employers and the government in order to ensure that there is a widespread understanding. It will not be perfect; there will be undoubtedly some things that do not work particularly well in the beginning. We are saying, ‘Let’s try to make sure that the best efforts are made in terms of disclosure and in terms of preparation of employers and employees for something which is probably going to last a very long time and which is difficult in the beginning.’

CHAIR—Do you think there will be much cost to employers?

Mrs Martin—There will be. How much is hard to assess at this stage. But certainly all employers will have to spend time and money on making decisions and putting together the communication material, and that will obviously be quite significant, particularly if they go

for the limited choice option, because the onus is then on the employer to make sure that they have gathered all the relevant information and are communicating that to employees.

CHAIR—At this early stage, can you say from your contacts with various clients what sorts of choices big companies, medium companies and very small employers are likely to make, given the range of choices. Do they fit into any particular pattern at the moment?

Mrs Martin—No. The circumstances of employers vary quite significantly. Among the clients that I am aware of, there is a mixture of responses as to whether they think that the unlimited choice or the limited choice or even the workplace agreement route is the way that they will choose to go.

Senator CHRIS EVANS—Has there been a demand from employers for choice?

Mrs Martin—No.

Senator CHRIS EVANS—I was going to put this matter to Mr Trowbridge. We have had evidence from a number of witnesses that in fact there is no demand for choice, either in existing funds or from employers. You have highlighted some of the dangers that might be inherent in individual investors making wrong decisions.

We have heard about the difficulties that will occur in the beginning of any choice scheme. We have heard from Mrs Martin today about the cost to employers, which does not seem to have been worked out, and it worries me a bit that we are embarking on something when we have not actually worked out what the costs involved are. It is a question we have asked a number of witnesses and no-one seems to have done the work. Why then is the institute supporting choice?

Mr Trowbridge—I do not think we are here to discuss whether choice is a good thing or a bad thing. We do have some comments on it. Our starting position is that choice is going to be implemented, and we are interested in it being done in the best way possible. I would qualify something Helen said a minute ago. There is actually member choice at the moment in a lot of superannuation funds. But, at the moment, it is not compulsory and it is done in different ways, usually at the discretion of the employer or the trustee.

Senator CHRIS EVANS—That was going to be my next question, Mr Trowbridge. Why wouldn't it be a more sensible way to go to require all superannuation funds to provide internal investment choice to their members as a first step towards provision of choice of funds? I am not necessarily running that argument; it is a sort of devil's advocate question. Why wouldn't that be a better, more prudent step?

Mr Trowbridge—I am not sure that I can answer the question very well. The best answer I can give at the moment is that with any form of compulsory member choice there has to be a lot of preparation, a lot of standards arranged, a lot of work by providers and by legislators and regulators in order to set up a regime which is going to be effective for everybody, because you are now into a regime of consumer protection, which you do not really have when it is essentially a contract, as it is at present, between the employer and the employees. If employees do not like what they are being offered at the moment, I guess they

have to take industrial action or negotiate directly with their employers. But once we are talking about a compulsory regime, I think the issues change. That is really the context of our observations.

Mrs Martin—I think you would probably run into a lot of similar issues with member investment choice that you are going to have to deal with with choice of fund, because you still have the education of both members and employers; you still have a process of actually going through the decision about what options you offer; and you still need the generic information and to raise the level of awareness of individuals about the implications of choice, whether it is a fund or investment.

Senator CHRIS EVANS—That is a good point, Mrs Martin. But isn't it a question of whether you put the cart before the horse? What happens now is that every witness comes along to us and says, 'We're faced with this enormous change on 1 July and there are all these things that need to be done first.' I am suggesting that maybe we ought to have a program that puts those things in place first and then we introduce choice. Whereas at the moment you are dealing with a draft bill which, I suspect, will get amended in the Senate—I have certainly got a couple of proposals to amend it—and which you probably will not see in its final form before April or May, and on 1 July you are advising employers on implementation. It seems to me that a lot of those points you make are very well made. They are not going to happen before 1 July, are they?

Mr Rankin—What we are saying is that this should not come in now; that is what we are saying. The institute is saying, 'Don't bring it in now because of the number of issues that you've pointed to.' We think it is too soon. Employers are not ready; providers are not ready; consumers are not ready. There is a potential for some serious problems if it is brought in quickly. We are urging caution: put it back a bit; better to get it right, than to get it in.

Senator CHRIS EVANS—Thanks for that.

CHAIR—May I point out that we also have representatives present today—and there were at our Melbourne hearing—from the tax office, who have an integral part in this debate, and from the Insurance Superannuation Commission and the minister's office. So you are speaking to more than just members of the committee at the present time.

Senator ALLISON—I have a simple question. How will this actually affect your job as actuaries, if at all?

Mr Trowbridge—There are two separate roles here for actuaries. One is for the kind of practitioner that Helen represents, who is an adviser to trustees; the other one is for the kind of practitioner that I represent, where we give a lot of advice to financial institutions who are the providers. So the answer is different.

There are many institutions at the moment trying to figure out how they will offer choice, how they can be competitive, how they can do it without losing money and how they can gain clientele or gain funds under management. There are many actuaries involved in

that area and there are very many actuaries involved in advising trustees and funds. Helen, perhaps you could respond in relation to advising employers and trustees.

Mrs Martin—Choice, in a lot of ways, has a lot of financial implications and actuaries are well placed to advise on those areas. Calculating returns for comparisons between funds and developing benchmarks to allow members to compare outcomes under alternative funds are areas where actuarial input can hopefully ensure that the outcomes are better.

Senator ALLISON—Would it be fair to say that this choice regime will be a boom for consultants and a whole raft of advisers of various sorts? Is that true also for the actuary?

Mr Trowbridge—To some extent it will be, but change of any kind always creates a lot of activity and, in this case, that activity will affect a lot of consultants and a lot of other people as well. I have to say that we do not necessarily all regard it as desirable that we have to do a lot of extra work because there is change; it is sometimes desirable, sometimes not. The desirability is really about the desirability of the change. That is the way we look at it.

I know it is always possible to say, ‘Those people are benefiting financially from the introduction of this change,’ that this group or that group is. But I would like to emphasise where I started from: that our interest in this is seeing the job done well. If it is done well, then that will minimise the waste of resources at the implementation and also allow efficiency of operation later on. If it is not done well at the outset, then there will be lots and lots of money spent inefficiently later on trying to patch up things that were not done right.

I am not sure exactly where you are coming from with the question, but my general response would be to say that we are interested in efficient implementation of a change which can be beneficial if it is done right. If it is done poorly, we will all wish it was never introduced.

Senator ALLISON—The committee is interested in cost benefit, both to the industry and to consumers. That is why we are pursuing these questions of what the cost will be and what the benefits are. Are there real benefits in all of this in the long term? What is your judgment about the benefits to consumers?

Mr Trowbridge—There can be benefits if you believe that the circumstances of individual members of superannuation funds are not always well recognised by their employers. At the moment the employers, in most cases, determine most or all of what happens with the investment of members funds. In some cases the members have some choice, but they do not even know if it is a good choice. Senator Evans mentioned—

Senator CHRIS EVANS—Some of us would argue that it is the same under the proposed regime, Mr Trowbridge—but we will leave that argument.

Mr Trowbridge—That is just my point, that we want to see that it is done well. There can be benefits if it is done well. Helen, do you have anything to add?

Mrs Martin—One of the benefits that is perhaps difficult to quantify is that the policy of potential choice of fund has made employers relook at how they provide superannuation and at the sorts of benefits and services that they provide to the members of their funds. So there is a benefit to employees in that sense, in that they may be getting better services and perhaps benefits from the employer fund than they might have got if choice of fund had not been introduced. But it is fairly difficult to quantify that, because market pressures and other forces will tend to make that happen over time anyway.

Senator ALLISON—I would have thought that was a situation that had been under some sort of review and change for many years.

Mrs Martin—It is an ongoing process, but I guess the choice of fund policy has perhaps catalysed a bit more rapid action than might otherwise have been the case on that point.

Senator ALLISON—Do you have any data on that—on the change in the last six months?

Mrs Martin—No.

Senator ALLISON—So how do you form that view?

Mrs Martin—From experience with the firms and organisations that we provide advice to.

Mr Rankin—Could I make an additional point? There has been a trend towards accumulation funds where the investor or the member bears the risk, so it is not unreasonable in those circumstances that the investor or the member ought to have a choice, and ought to be able to make an informed choice. The government has announced it is going to introduce it. It was announced in 1995 by Peter Costello at the ASFA conference that choice was going to come in. It was announced as a policy, so it was not a surprise. The institute wants to make sure it comes in and is done well for the benefit of the individuals and for the benefit of the nation.

You can argue both ways, you can argue that you can have a sort of nanny state where superannuation is looked after by a benevolent employer and a benevolent fund provider, or you can allow people choice. You can run arguments both ways. The institute is particularly concerned that this asymmetry of information between provider and consumer is redressed because if it is not, choice will not work. Individuals will not be better off and the nation will not be better off. They will not be investing in growth or in patient capital, they will be going on short-term returns, looking at how the fund is doing every three months, and whipping it around as occurred in the mutual funds in the United States, to nobody's benefit.

Senator ALLISON—In order to inform consumers, would you see a need for an ongoing education campaign? Is this something that is going to have to be the government's responsibility for the duration?

Mr Rankin—We discussed that this morning. There are two points. There is the initial platform that the president has referred to and then there is a requirement for an ongoing

campaign. We do not think it should be just in the hands of the government, it should be the responsibility of employers and providers and the government that everyone should be involved in it. We have suggested in our submission that there needs to be a generic document which explains risk to investors, and explains different types of product providers and different types of product so that people are able to make informed choices. You cannot just start it and then not do anything. People do need to be reminded and as new entrants come in, they will need to be educated.

Mr Trowbridge—Jock made an interesting point about the advent of accumulation plans. If we go back 20 years before we had compulsory superannuation and when we had most large employers offering defined benefit funds, then both the investment risk and the inflation risk were carried fully by the employer and the employee did not have to worry about it. But we have had, as you know, a massive shift towards accumulation plans and that appears to be continuing.

Under accumulation plans, the investment risk and the inflation risk are both carried by the employee. So, it does make sense to make the employer accountable for ensuring in some way or other that the employee understands those risks and is in some kind of position to manage them. Since many funds these days have fund management done externally to the employer, then you really want to make those fund providers accountable as well for ensuring that the risks of inflation and investment performance are understood by the employees.

If you are looking for a rationale in an historical context of some form of member choice, it is in the accountability of the providers and the employers, and I guess the government because it is the one that is pushing this. The government is really saying to employers and providers, 'I want you to be accountable for making sure that all the members of your funds know what they are doing and are in a good situation and are investing correctly.'

There is a change. It is quite different from 10, 20, or 30 years ago in Australia, and it gets more and more important. Under the whole superannuation guarantee legislation we have six or seven per cent compulsory contributions. That is not enough to provide for the retirement benefits of our community and over time the emphasis is going to shift from what people are paying in to what end benefits they are getting. That is where investment performance is so critical. It is the accountability question that is relevant here.

Senator CONROY—Do you get your superannuation paid monthly?

Mr Trowbridge—Do you mean—

Senator CONROY—I mean your own contributions paid by your employer.

Mr Trowbridge—Yes, they are paid monthly in the case of my employer.

Mrs Martin—Yes.

Mr Rankin—Yes.

Senator CONROY—Compounding is a concept probably not well understood in the broader community but it is at the heart of why superannuation is so important to the retirement income of people. If a person gets paid once a year, will they be worse off than if they are paid monthly?

Mr Trowbridge—If they are paid once a year in advance they are better off, but if they are paid once a year in arrears they are worse off.

Senator CONROY—I do not know many employers who offer to pay a year in advance. I would like to meet them!

Mr Trowbridge—If you are referring to lost interest income, yes, sure, the more you are paid in arrears then the worse off you are.

Senator CONROY—Has the institute done any calculations at all about the loss on the end package of a shift from a monthly payment to a yearly payment?

Mr Trowbridge—Those calculations are not difficult to do.

Senator CONROY—Would it be possible?

Mr Trowbridge—Yes, it is quite straightforward. I would suggest that it is minor. I can tell you off the top of my head what it is. If the investment income is, say, nine per cent for the year and you are effectively deferring the receipt of the investment income by five or six months then you have five or six months worth at nine per cent. Am I right, Helen?

Mrs Martin—Yes.

Mr Trowbridge—So you have about a four per cent loss.

Senator CONROY—Would you like to be paid annually in arrears? Would you prefer that?

Mr Trowbridge—No, I would not. From an employee point of view, all sorts of things can change in a year and I like to know that my employer is doing things—

Senator CONROY—You are probably aware that the majority of industry funds have award arrangements that see people paid monthly and in your submission you are supporting the removal of monthly payments from the federal award environment.

Mrs Martin—Are we?

Senator CONROY—You say:

In particular we welcome the following features of the Bill:

... ..
. the removal of superannuation from the Federal Award environment;

Mr Rankin—I do not think that means we support the abolition of monthly payments.

Senator CHRIS EVANS—Senator Conroy is making the point that that is one of the major effects of this bill. You refer later on to allowing a 56-day period after 28 July for payment of the superannuation guarantee obligations.

Mr Trowbridge—That is a separate issue.

Senator CHRIS EVANS—Senator Conroy is just raising concern about the total impact of the legislation in terms of some of these issues about the effect on member's accounts.

Senator CONROY—Do you think it would be cheaper for an employer to do a once-year payment than to have to pay monthly?

Mr Trowbridge—I do not think so because the employer has administrative issues to deal with. Speaking as someone who has been involved a little bit with the administration of a business, this is more an administration issue and not a superannuation issue. To do all the salary and other related issues monthly is usually easier than doing everything at year end.

Senator CONROY—Once you set up the package on the computer there is no—

Mr Trowbridge—Yes. It avoids disputes with people who leave during the course of the year or whose salary changes. It is really easier to do all those things. You can still do an adjustment at the end of the year but the timing of any adjustment at the end of the year is not critical if you have been paying on the way through. We are certainly not advocating that change.

Mrs Martin—Perhaps. I think the rationale for the comment in the submission about removal from the awards is to basically take superannuation out of the award arena rather than to change anything to do with the administration or processing of contributions to members' accounts, so it becomes an employer issue that is dealt with employer to employee rather than through the award systems. In practice, even if you do take superannuation out of the awards, employers are not going to change their practices with respect to whether they credit monthly or annually.

Senator CONROY—I have spent four years of my life chasing employers who do not pay monthly. Even though they had an industry award contract with a fund, they would look you in the face and say, 'Start the disputes mechanism because, by the time you get through the end of the process, it will be 28 June and we will have paid. You can come and collect the cheque on 28 June.' Personal experience like your own that you were describing earlier suggests otherwise. It was the bane of my life for four years.

Mrs Martin—It obviously depends on which end of the employer spectrum you are dealing with.

Senator CONROY—The transport industry is always a fun one. Is it possible to get just a one-page analysis of the calculations that you did rule of thumb earlier?

Mr Trowbridge—Sure, we could do that for you.

Senator CONROY—That would be most appreciated.

CHAIR—I think you are referring to issues that Senator Conroy has raised. There are also practical problems about 28 July. Who has an opportunity to pay could well be a fruitful source of reference for the committee in the future. It has been suggested that perhaps the system does need some modification. I think Senator Conroy feels that there may be a connection from the loss of awards that could result from not this legislation but other complementary legislation on industrial relations. I think that is how it was raised.

Senator HOGG—I just want to focus on what I have picked on for the last two days: that is the issue of informed choice. We have heard evidence that an ABS survey done in 1996 shows that 48 per cent of the Australian population are in level one and level two of literacy and numeracy out of a scale of five. That basically means that they have difficulty reading a bus ticket, calculating interest and a number of other functions. Then one looks at the fact that, according to that survey, level one alone has somewhere in the order of 2.5 million Australians. We see people coming before the committee and talking about informed choice. These are the people who are invariably going to be the most affected because they are going to have the greatest difficulty. How do they make an informed choice if they are trying to read a key feature statement and they cannot read?

Mr Trowbridge—That is a difficulty with many consumer issues, especially in financial services. It does not only apply to superannuation.

Senator HOGG—But the difference here, with great respect, is that we are dealing with something that is compulsory as opposed to something that may well be optional. We are talking about improving their lot, as your and my expressed desire is, rather than worsening their lot.

Mr Rankin—Senator, does that mean that they now do not understand their superannuation statements so they do not understand what is going on now?

Senator HOGG—Yes. This was one of the other frightening pieces of evidence that we had. That only somewhere between five to eight per cent of people on the work site in the building industry, where superannuation is a key issue, had any real ability to converse and understand about the issue of superannuation.

Mr Trowbridge—This is a difficult question. I think it is more or less a political one in some respects because it is a question of—

Senator HOGG—It gets to the extent of your education program and how you proceed about it.

Mr Trowbridge—Absolutely. That is why we are saying what we are saying about key feature statements.

Senator HOGG—But they cannot read them.

Mr Trowbridge—Why I say part of it is a political issue is because it is about how paternalistic you wish to be. Part of the whole shift from defined benefit funds to accumulation funds and the design of our super guarantee legislation, which is really promoting accumulation plans, is putting a lot more responsibility on individuals. As I said before, the investment risk and the inflation risk are in the hands of every employee who is a member of an accumulation plan. That decision is already taken.

Different people have different views about this. Some people argue it is a legitimate democratic right to have that kind of freedom to make your own decision. But the people who have difficulty making those decisions may suffer in those circumstances. People who take that view sometimes advocate a more paternalistic approach, which is typically a defined benefit fund, with the employer taking that investment risk and inflation risk. You are delving into some deep issues here that are outside what we took to be the scope of this. Our context is to say we recognise there are big problems there. We would like to see the best efforts made to deal with them.

Senator HOGG—The best efforts are not necessarily going to mean an informed choice. That is my whole point. The problem we have is that, where people are confronted with choice, we are going to open up a whole new can of worms. They are going to go along to the leading hand or the shop delegate or someone who is older and considered wiser on the workplace floor. They will tap them on the shoulder and say, ‘What should I do here?’ You are going to have a whole raft of people with no financial experience saying, ‘We think you should do this.’ Where does that sit legally within this whole concept of choice?

Mr Trowbridge—Protection of consumers is an important part of this. They arguably have no protection at the moment against an ill-informed employer, for a start. This will presumably correct that, but put a little more responsibility on them. Protection of consumers is part of what we are looking for in the key feature statements. When we talk about education programs, that has to be part of it.

I would add that, in some of the work I have done, I have watched the evolution of financial products in this country. There is no doubt that things which 10 or 15 years ago were seen to be complex are now commodities. People just go and buy their car insurance with very few inquiries in many cases, whereas 20 years ago they would study all the benefit conditions to make sure it was the sort of policy they wanted. That has become a commodity and people rely on the integrity of the institutions providing it. The number of institutions providing a lot of these products has diminished. There is rationalisation in the financial services sector. You will have to take a view, in the end, as to how far you can push the financial institutions to participate and contribute towards the understanding that you are looking for, which I agree is a potential risk.

Mrs Martin—That is one of the reasons why we have focused on not just the key feature statements but a genuine education campaign. You need to look at mediums of delivery. You are right. There will be a lot of people who will not be able to read and understand key feature statements. Any good communication program hinges on raising awareness and then trying to develop understanding. I think the industry, the Australian Taxation Office and the government need to work together to try and do the best we can.

Senator HOGG—Given that we need a good education system, what is the length and breadth of that education system? How long does it need to take place? I am not trying to delay the implementation of this, necessarily, if choice is to come in. We are looking at a myriad of small employers out there. We are looking at a number of big businesses that will be able to cope and the voluntary employers that Senator Watson has already referred to. Just putting the material together and disseminating it out there in the workplace, what sort of time frame will there be?

Mrs Martin—For the initial education campaign, I would say a minimum of six months to actually develop the plans, get the material together and get it out there.

Senator HOGG—The other thing, the key feature statements: should they be road tested before we get down to the final format of the key feature statements, given what I have said about the literacy and numeracy problem? How important is that?

Mr Trowbridge—If a financial institution was introducing a new product of its own free will, it would do its own kind of road testing to try to understand whether it was saleable, whether it seemed to be workable, and so on. Yes, some form of—

Senator HOGG—We are looking for consistency across industry here, which—

Mr Trowbridge—In this case, because it is a compulsory government led initiative, the government has to participate in some way in that preparation. I would say, yes, there needs to be some form of road testing. That expression, though, can cover a multitude of things. I would not want you to think that you could successfully road test it thoroughly without actually doing it. What I would like to see happen is a major education campaign in advance with whatever road testing can be done to help design both the education program and the key feature statements and then a lot of careful work in the first year of implementation, because that will be the tough time. People will get used to this. Five years down the track, people probably will be making informed choices if the whole regime is okay. But there could be a lot of difficulty in the beginning and we are keen to see that smoothed as much as possible.

Senator CONROY—What about the government public education campaign to do with the introduction of call number display? The government has said, ‘We won’t introduce it. We won’t let Telstra do it until 80 per cent of the community understand,’ and then they will do road testing. One way they will do that is to conduct surveys to see if they have reached the 80 per cent level yet. Do you think, given that that is the sort of level, test, they put on a public education campaign, that that would be a useful thing—that choice should not go ahead until we can demonstrate that 80 per cent of people understand the key feature statement?

Mr Trowbridge—I think that is a very different issue; that is a privacy issue, basically, as I understand it. I do not claim to be an expert on that issue, but I think it is a privacy issue, which is quite different. This is a financial wellbeing issue for individuals and it could matter a lot years down the track. I do not know how you road test it either—that is the other thing.

Senator CONROY—Senator Sherry suggested something—I think it was referred to yesterday—called the ‘bar test’. You walk in and put it down on the bar at the pub and say, ‘Can you understand that?’ If 80 per cent understand it—providing they are sober, of course—then you pass the bar test.

Mr Trowbridge—I do not think that is actually a very good criterion, with all due respect, because one of the consumer protection issues here is to have key feature statements by providers. We want to prevent institutions, fund managers of various kinds, pushing people into high expense rate and either high risk or low earnings rate type funds when they are better off where they are today. So the whole regime has got to push providers to be responsible and make them accountable for trying to do the best for the employees. There are clearly protections needed against sharp sales practices, and so forth.

Senator CHRIS EVANS—We have spent 15 years eradicating those practices from the superannuation industry. We are almost rid of them. It seems to me that the advocates of choice have to prove that this is not returning to those sorts of practices. It is a big test. There are still people trying to get out of poor returning funds that have huge exit fees and penalties that are hangovers from 10 to 15 years ago. One of the reasons we are trying to tease this out is that we have, I think, almost got the industry to a fairly—for want of a better word—‘clean’ stage: a lot of the commissions have gone, a lot of the fees have gone and there is a lot more transparency.

One of the great dangers we see in choice—that is I see and I think Senator Conroy sees—is that we will go back to those days of commissions, of hidden charges and of pressure on people to join one scheme or another. It seems to me the advocates of choice have got to prove their case rather than just saying choice is good, competition is good.

Mrs Martin—The disclosure regime is critical in that sense. I think a lot of the developments that have happened in the individual insurance and personal superannuation products have been because of the development with the ISC and other industry bodies of good disclosure regimes so that you cannot hide the commissions and charges to the extent that you could in the past.

Senator CHRIS EVANS—There is a very good bit of evidence from a Western Australian submission, along with others, which says that there are experienced people in the superannuation industry who cannot make a valid comparison between different products because of the hidden charges and the way things are expressed differently. People with experience of 15 years in the superannuation industry say that they cannot make an informed decision because they cannot be certain about all the costs and charges involved in these things.

Mr Rankin—That is true about the managed funds industry at the moment. That is also true about some of the sections of the superannuation industry. What the institute is saying is clean it up or this will not work.

Mrs Martin—That is what we put in our submission to the ISC.

Senator CHRIS EVANS—I accept that. I am not attacking you. What I am saying is that we have got to be convinced that this clean-up will work and that is where the KFSs—you want to call them KFCs, which is another point about the power of advertising that we ought to think about. We really need to be sure that this is going to work. You mentioned earlier that you put a couple of submissions to the ISC. We would be very interested in seeing those if that was possible. I think we are going to need to be convinced that this KFS system is going to actually work. It is all right to say you—

Mr Trowbridge—We share your questions and your concerns. I do not think we have really been considering whether it will or will not work and I think it is not black and white either. It is a question of how well it will work and we are, I think, supporting your viewpoint that we want to see it done in such a way that it works well.

Senator CHRIS EVANS—I put to a couple of industry people—I must say it made them choke—that maybe the other way of attacking this problem is rather than trying to find a way of analysing apples and pears so people can understand we should make everybody charge on the same basis so that we are comparing apples and apples. There would be a contribution fee or an entry fee or commission fee or whatever. We would standardise the way superannuation plans are allowed to charge so that we are then comparing apples with apples.

Mr Trowbridge—I do not understand that commercially. That is a very strange kind of proposal. If you do that you will either have the price too high in which case a lot of fund managers will earn fat profits and you will have—

Senator CHRIS EVANS—I am not setting the price, Mr Trowbridge.

Mr Trowbridge—Yes, the price of the expenses is what I thought you said.

Senator CHRIS EVANS—What I am saying is that—and I admit I am a layperson—for instance they would be allowed to charge a percentage commission fee and an entry fee.

Mr Trowbridge—I see.

Senator CHRIS EVANS—Just for example and they compete then on the basis of those costs. One of the problems you are grappling with is trying to pull all of the different fees and charges from different schemes into some amalgamated form so that you can compare them. I wonder whether trying to standardise the way that they charge, not set the rate—let them compete on the rate—would be a better way of going about it, or am I completely off the planet?

Mr Trowbridge—I would still say that is commercially strange. For example, there are nil exit and nil entry fee funds at the moment, there are different up-front fees and there is a lot of competition. These fees in Australia are still higher than they are in the US or the UK for example, but they are coming down. I think if you sort of standardise it in some way, you will promote a position where people exploit—the fund providers try to maximise their profits through that and you will kind of stifle the innovation and you will stifle the whole product development and distribution process for these funds.

I think it is better to have disclosure and allow competition. When costs come down, prices come down and when prices come down, some people's costs come down and if they do not come down they go out of business and the more efficient providers are there. To me, that would be an unusual regime. You are talking about a fixed price basically for the expense component.

Senator CHRIS EVANS—I do not want to prolong it. I am not talking about fixed price; I am talking about standardisation of charges, so that you can compare like with like. One of the problems at the moment is because—

Mr Rankin—Standardised reporting is what you are talking about, so that you could have in one part of your key features document or offer document or whatever you want to call it, exit fees nil or \$2,000, entrance fees, management expenses, up-front commissions for entry to the thing, nil or four per cent or whatever for agents' commission. If all that were disclosed, where in the case of industry superannuation funds for argument's sake, the management fees are next to nothing and there are no entry or exit fees and no payments of commission to anybody, then people can make genuine comparisons about where they are better off.

John is right. I do not think you can standardise fees and charges and so forth, but you can standardise the disclosure, so that people understand that, if they go into an industry fund, they are going to be up for much less in costs than your average master fund and they need to be able to look at a document which tells them that.

CHAIR—Just a question in relation to defined benefit funds that are actually in surplus: will there be any difficulty in putting this in a key feature statement?

Mrs Martin—Yes. There are obviously some complexities for defined benefit funds in terms of how you communicate and what you communicate to members. I am not sure that that is necessarily different whether the fund is in surplus or not. You still have the issue of conveying to the employee the key features of the fund and the value of the benefits they are getting and the features of the benefits that they are getting.

CHAIR—What preliminary advice are you giving to your clients in relation to those funds that are in surplus in terms of the key feature statement?

Mrs Martin—I do not think we are at the position of providing advice on that particular aspect at this point, because we are not far enough down the track with the legislation and the disclosure regime to do that.

CHAIR—This would be a problem for certain companies. Thank you.

Senator HOGG—Just one last question: do you have any idea of the impact of choice on the final return for the employee? Let us say they are getting a return now of eight per cent, will the impact of competition and so on see them with a net result of an extra one per cent or two per cent in the longer term? Do we have any idea of what the impact will be?

Mr Trowbridge—It is not possible to estimate that.

Senator HOGG—So it is just a notion at this stage that it will lead to an improved benefit, but we are unable to quantify exactly how much that benefit will be?

Mr Trowbridge—The benefits are really around the accountability type questions that we were discussing a little earlier, because it is a matter of having the most appropriate fund for the individual employee, and it is almost an efficiency question. I do not think we can quantify it.

Senator HOGG—No, it is just that we saw in the past so many superannuation packages projecting what our return will be by the year 2050 if you stick around and pay them and so on. Here we have something that is going to be a benefit.

We are told that there is going to be more competition in the marketplace and more people are going to get a better result in their dividend. I am trying to get some sort of projection, if you people have done it, as to what the long-term benefit will be for people in these funds.

Mr Trowbridge—It is an interesting question. In the case of life insurance benefit illustrations, including superannuation products, benefit illustrations do exist and when they first came out, there was a lot of controversy and a lot of complaints because people discovered they were getting lesser benefits and the ISC introduced requirements for these benefit illustrations. I think our profession was closely involved in both designing those and then in implementing them.

Within the whole regulatory regime, there does need to be some control over the way benefit illustrations are done so that they are not misleading. The first step is to make sure those illustrations are not misleading. That will have to be part of the regime and that is one of the things that we will be discussing with the ISC. After you think you have that regime working okay, then you are in a position to try and debate whether you get a better or worse benefit from a particular kind of fund.

There are a lot of issues: it is not just a matter of whether fund manager A is a better or worse investor than fund manager B. The needs of a person who is 55 are very different from the needs of a person who is 25, and the person who is very confident about his job or is on a high income versus the person who is not sure about his job or is on a lower income. There are a whole lot of different employment situations that this whole thing can cater for and it is those sorts of things that are going to be more important, I think, than the difference between fund managers. I take your question to be indicating the sorts of things that need to be thought right through.

Senator HOGG—I am concerned that in about five or ten years we will meet again and we will all be saying, ‘Yes, we have gone through the process of choice but, at the end of the day, all that has happened is that there has been a group of consultants out there who have benefited and we cannot show any long-term overall growth for the people that this was designed to benefit—that is, the employees and the members of the fund.’

Mr Trowbridge—The only thing we can say at the moment is that the nature of our submission, and of the institute’s interest, is to minimise the chances of that happening and

to maximise the effectiveness of what is proposed. We are not really debating whether or not to do it is a good idea. We have concentrated on the sorts of things that have to be done to optimise it.

CHAIR—I think the interest from the committee members in your presentation and your depth of knowledge has set us back half an hour. My colleague Senator Evans wanted to ask questions but he is deferring those to the next witnesses from ASFA. Thank you for coming and thank you for the quality of your responses.

Before calling the next witnesses, the committee has been joined by Senator, the honourable Nick Sherry. While Senator Sherry is not a member of the committee at the present time, he has been associated with the committee from its inception. In fact, he was the first chair of this committee and it is my understanding that he may well be rejoining the committee some time in the future. Given his interest in superannuation, I have asked him to join us at the table to observe the proceedings. Because he is not currently a member, he cannot take part in the active proceedings of the committee. That is why he will not be asking any questions. I am sure that will be very difficult for him but he tells me he will be making copious notes for his debates in the Senate chamber.

[10.13 a.m.]

ANDERSON, Dr Michaela, Director, Policy and Research, Association of Superannuation Funds of Australia, Level 19, Piccadilly Tower, 133 Castlereagh Street, Sydney, New South Wales 2000

SMITH, Ms Philippa Judith, Chief Executive Officer, Association of Superannuation Funds of Australia, Level 19, Piccadilly Tower, 133 Castlereagh, Sydney, New South Wales 2000

VILGAN, Ms Rosemary Anne, Federal President, Association of Superannuation Funds of Australia, Level 19, Piccadilly Tower, 133 Castlereagh Street, Sydney, New South Wales 2000

CHAIR—It is now my pleasure to welcome representatives from ASFA. I think all the members appearing before the committee are well-known to the superannuation committee. I would like to make a special welcome to Ms Philippa Smith, the new executive director. Ms Smith has appeared before various committees over the years in her capacity as the ombudsperson. We take this opportunity to congratulate you on your appointment, and wish you a long and satisfactory career. We look forward to an equally long and satisfactory and fruitful participation with you in the resolution of committee issues, together with all your colleagues.

Ms Smith—Thank you.

CHAIR—I now invite you to present a submission. Feel free to add to that submission or to any other matters that have been debated here or yesterday or matters raised by other people in submissions that you may not have already covered in your own submission. We are interested, as you know, to get this right and we ask you to make an opening statement.

Ms Vilgan—Thank you. ASFA has prepared a written submission, which I understand the committee already has. We would like to thank you for the opportunity to appear before you today. As you are aware, ASFA represents all sectors of the industry. As such, we have had to give a considerable degree of thought to the issue of choice because it affects the different sectors in different ways.

On balance, as our submission shows, we have come out in favour of choice. We have come out that way for a number of reasons. Firstly, the ownership by the members of their superannuation benefit, we believe, is likely to increase. That is, their sense of belonging and their understanding of their superannuation benefit is likely to increase. We believe there will be some benefits from competition in the industry and also that there are people in funds now which are not suitable for them, and those people should be allowed to leave those funds. Of course, the problem is in people deciding what funds are unsuitable for them and that is where the whole issue of choice becomes quite difficult.

ASFA has taken a pro-active stance over about the last 18 months on the choice issue. It has led workshops, published a number of papers and undertaken a national seminar with people from the Commonwealth government as well. We are cognisant of the changes the

government has made in its policy since the announcement of the policy and the introduction of the draft legislation. We are appreciative that a number of those changes have taken on board some of our concerns.

At the moment, ASFA is certainly pressing for a delay in the implementation date. We do believe there is a need for legislation to be passed as soon as possible to get certainty but the actual start date of 1 July this year we do not believe is reasonable. Effectively, there are a number of issues. There is the issue of education of members. Whilst members will be faced with quite a new regime there needs to be some level of understanding in the community of what they are about to face. The disclosure standards do have to be made more certain and that is quite difficult at the moment as there is soon to be a changeover between the ISC and the ACFSC. So, at the same time the industry is about to go through change so is the regulator. We cannot actually get certainty on what the standards are to be at the moment.

There are also difficulties between the Commonwealth and the states where some states have different choice arrangements. We would like those clarified by the Commonwealth. We do not think that this is something that can be done in the next four or five months. The position of the SCT in the last week has also made a quick implementation of choice more difficult. It means that, for the time being, there is no complaints mechanism so that where there are difficulties to be faced it would add to the problems in resolving them. We are seeking legislative certainty as soon as possible but we would prefer a start date not before July next year. In saying that we are supporting choice and believe that there should be education for the community.

We would like to draw the committee's attention to the issue of funding the education. As indicated in our submission, we believe that there is some funding required from the government but we would also like the committee to know that the industry substantially overfunds its costs of self-regulation. Our submission indicates that at the moment there is probably at least \$12 million in surplus that the industry has paid. It is probably at least \$16 million but the ISC would be the only body able to give you the exact figure.

In effect, there is money that the industry has paid which would ensure it could self-fund the education campaign. The combination of that and government funding would, in fact, make for a sizeable and long-term education campaign. The intent of the levy was to cover costs but it is far in excess of costs at the moment. They are probably the opening remarks at this stage but we would be happy to take questions on the submission.

CHAIR—Thank you.

Senator HOGG—On the issue of dispute resolution: in view of what you have said, where do you see dispute resolution taking place?

Ms Vilgan—I understand that there are a number of possible options and the Commonwealth would be taking its own legal advice at the moment on whether it can amend its legislation. There are also possible changes in the nature of those that have taken place in the Human Rights Commission or the Native Title Tribunal where there is still a court backing them up. There is also the option of a self-regulatory industry body that superannua-

tion funds would have to sign up to. We are actually going to pursue discussions on a number of those. We have already written to the committee on the complaints issue. So it is not resolved at the moment. At the moment, a person would have to take court action.

Senator HOGG—Is there a role for the Australian Industrial Relations Commission in dispute resolution? When one considers the original introduction of superannuation, one sees that most of the battles were fought out in the Australian Industrial Relations Commission. It seems to me now, with other steps that the government are contemplating, such as taking superannuation out of the allowable matters in awards, that there is an obvious forum which has dealt with superannuation over the years that is just being cast to one side.

Dr Anderson—There is, in fact, a problem anyway with the jurisdiction of the Superannuation Complaints Tribunal and the new role of employers here, which we have drawn attention to as needing some solution. Even if the Superannuation Complaints Tribunal were, in effect, active, it is difficult for me to see how it would deal with some of the matters which might arise out of the employer's role in choice.

Ms Vilgan—Just on the Australian Industrial Relations Commission, if it remained an allowable award matter, some of the disputes could be settled there. But this legislation goes beyond what is in awards: it covers non-award employees, for example, and people employed under the states. So it would not solve all of the issues if you left it in federal awards.

Senator CHRIS EVANS—There are a range of compliance issues that are now prosecuted in the commission area. We have had evidence from a number of unions of successful prosecutions having to be taken to ensure proper payment et cetera. What does ASFA say about that and the proper assurance of compliance in the superannuation industry?

Ms Vilgan—The issue of compliance arises in two ways. One is with the awards and the other with superannuation guarantees. So the employers have to pay a contribution or face a superannuation guaranteed charge. So there is a dual role for the tax office as well as the Australian Industrial Relations Commission in compliance. We, obviously, do not in any sense support non-compliance with either award or super guarantee obligations.

Senator CHRIS EVANS—I guess what we are trying to tease out here, Ms Vilgan, is what you say about the desired outcome. I understand what the issues are, but I am not sure what ASFA is saying in a policy sense about these issues.

Ms Vilgan—The issue of non-compliance?

Senator CHRIS EVANS—Compliance and whether or not it is desirable for the Australian Industrial Relations Commission to continue to play a role, how you see the future of compliance and the enforcement of these things occurring in the industry, as a policy position of ASFA, if you have one.

Ms Vilgan—We have not taken a position, I think, on the removal of the Australian Industrial Relations Commission from awards. We have in a supplementary submission to the Senate committee highlighted that awards do provide a number of measures additional to

the super guarantee. For instance, awards can require payment from the first dollar. There are also issues like a threshold or an age minimum that is different from super guarantee. There are matters in awards that are enhanced superannuation conditions. I do not understand that it was the intent of the choice legislation to remove superannuation from any persons. So I think there is a place for trying to entrench those enhanced provisions.

Senator HOGG—The other issue that I wanted to raise was that in your submission you referred to the Internet. I think of all the witnesses to appear before us so far you are the first to refer to that as a source of information out there in the community. My understanding from another inquiry that I have been involved in is that the penetration of the Internet as a source for either business or for the public at large is still very minimal indeed. Just what role do you see it playing with the penetration out there in the business marketplace—and at the top end, there is undoubted penetration—for the average small person and also, for the general public, because it is described as the \$5,000 club to get into.

Ms Vilgan—I am certainly not qualified to give you statistics on penetration of the Internet. ASFA has determined to provide an Internet site that will, I guess, be a library of available funds on offer. So funds would effectively lodge their statements with us. An employer or an individual could actually search the site and look for funds that suited them. Instead of making 6,000 phone calls to 6,000 super funds, they would get a listing from the Internet site.

The use is somewhat limited, obviously, to those who have access. Whilst an individual—Joe Blow Public or whatever you want to describe him as—may not have access, quite a number of school children will, quite a number of public libraries will. So there is actually, I think, a source: as the younger generation get to use the Internet, they will encourage their parents or assist their parents in sourcing information.

Senator CONROY—I have to ask my nephew to work the video. I am not sure I am going to front him on my super policy.

Ms Vilgan—No, you do not have to front him. Essentially, it is our intention to provide it as a library of available funds to assist employers. If they want to be an employer offering four funds, they could get the information from our site.

Dr Anderson—I think we have another purpose there, too, which is that by making these key feature statements public we are, in fact, hoping to promote best practice within the industry itself in that we will make them public. We would see that as a force for good, for standardisation.

Ms Smith—I can perhaps add to that. I think some of the questioning I heard earlier pointed to the need for uniformity in terms of reporting and disclosure. As Michaela just indicated, by creating a best practice standard we are trying to lead the industry in that way and create some debate and uniformity about how that disclosure should be made so people are comparing like with like when they are looking at various products.

Senator HOGG—On that issue, are we likely to go down the path of creating information overload for people, such that they will be bombarded by so much, whether they be

employers, employees or whatever, that they will just throw their hands up in the air and say, 'It's too hard for me. You go away and decide'?

Ms Smith—Questions were raised about education. Part of the real problem is that, yes, you can provide information, but it has to be done in a way that is relevant for people and so they know how to ask the right questions. That is why the key feature statements is one step in the overall information education campaign. There needs to be different layers that work on from that in terms of saying to people, 'Well, this is how you can interpret that information. This is how you understand it. This is why it is relevant for you. These bits might be relevant for you.' That takes a lot of time and a lot of working through with different parts of the community and, indeed, developing it up with industry, employers and consumer groups to ensure that it is hitting the mark, and that takes some time.

Senator ALLISON—I have just noted in your submission the recommendation that the public be educated about the characteristics and consequences of choice funders. How realistic is it to imagine that this will be possible either in the key features statement or in the disclosure requirements? What sort of information do you think could be made available under that recommendation?

Ms Vilgan—I am probably of the view that we are expecting too much to think that people are going to understand superannuation in general. The whole superannuation package is complex. You are not going to get on TV or in the press and make people understand it. I think some of the best things you could hope for at the moment are saying, 'This is a serious decision. Take your time. Talk to more than one person.' So, when we have a person who is illiterate, innumerate, I think there are basic messages that have to go out, almost like the health warning saying, 'Just slow down. Take your time. Talk to more than person.'

When we talk there about the bundling, effectively it is so people know what they are buying into. It would be an element of making them understand that you can buy a very simple or a very complex product. I do not think you can do a general message saying, 'This is what bundling means.'

Senator ALLISON—I misunderstood; I looked down at the recommendation immediately after that, and that is really what I am on about—that bundling that we normally associate with financial provision of services to employers. Is that something too that you think should be part of a disclosure statement?

Dr Anderson—I think there are two there. The first one, which refers to choice bundles, where we were trying to address the problem of one company offering a number of different categories of funds, we would like people to be aware that this was one company offering different categories and that could have—not necessarily would have—implications for the range of choices. For example, you could put the name of the backing company on the KFS so that people could in fact recognise that it all came from one company, although it was across different categories of funds—separate funds.

The second one is the one where there is a relationship, as you say, between the employer and some other institution for other financial matters in that company. We would

like to see that done. I admit it is a fairly difficult one, but to me that is an extremely important one.

Senator CHRIS EVANS—Is disclosure enough? If you have a group of people working for a company and they say, for instance, ‘We got a package from our banker’—I am not necessarily picking on the banks—‘and it is in the company’s interests and your jobs rely on us having a successful outcome,’ is disclosure enough or should we insist on it being arms-length?

Dr Anderson—It may work the other way. If the company thinks enough of this provider to use it for all these other things, that might be good enough for me for my super fund. That is the other side of that.

Senator CHRIS EVANS—As I say, the employee has an interest in the business succeeding, so there is the pressure on the employees in terms of that relationship as well. I am just wondering whether, as a public policy issue, disclosure of a financial relationship between the employer and the bundle of funds offered is enough or whether in fact, as a public policy position, we ought to say there that ought not be a relationship.

Dr Anderson—The other side of that is you might be depriving people of something that really was good.

Senator CHRIS EVANS—It is a brave new competitive market. There will be lots of products available.

Dr Anderson—It is a difficult one.

Ms Vilgan—I would make the point to the Senator that it is quite possible that this is happening now. It is nothing being brought on by choice. We are just suggesting that it should be more up-front, effectively. People should be aware that, if the super funds are being offered by XYZ entity, there are banking products or life products from the same entity. It is nothing new from choice.

Senator ALLISON—The committee has heard quite a lot about the advantages of choice and competition but has not really been able to flesh out where the efficiencies are going to come from and how it is going to be of benefit to employees, except to say that there is likely to be an amalgamation of small funds. As a superannuation funds body yourself, what is your view about that? Does it concern you that you may have your medium to small funds go to the wall, as it were, and what is to be lost from that? Is there an issue here about destabilisation and too much change in that sense?

Ms Vilgan—Our industry, in coming to this position, has had to work out that there will be a rationalisation. We expect that there will be less in the small to medium range firms, probably more at the bottom end, more at the top end.

Senator ALLISON—Did you say more at the top end as well as the bottom end?

Ms Vilgan—Yes.

Senator ALLISON—Why is that the case?

Ms Vilgan—People gravitating towards, I guess, the larger funds which probably will be cheaper to be in and their economies of scale will make that possible. At the smaller end, some people want to take their superannuation themselves and do it themselves. So that, I guess, is quite to be expected. As far as efficiencies go, effectively, as I said, some people are in funds now that are not good for them.

Senator ALLISON—Can you give us some idea of the scale of this problem?

Senator CONROY—As a National Mutual policyholder.

Ms Vilgan—No, it does not have to be. I talked with one of my family for a long time. He is a 26-year-old guy in a capital stable product, in an employer fund. That was what the investment strategy of that employer fund was. So there are funds—

Senator CHRIS EVANS—What is to stop him choosing that?

Ms Vilgan—There is nothing, no. There is nothing to stop him choosing that.

Senator CHRIS EVANS—It is an important issue, though, is it not? People say that you can have choice, but then you have got to assume that they are going to make the best choice for themselves.

Ms Vilgan—It is a difficult thing. As I said at the very start, people are in funds that are not suitable and it is very hard for us to say now what is suitable for any person.

Senator ALLISON—Who would be in the best position to know this? Who is making the judgment and on what basis is the judgment that there are a number of people—I do not know how many—in this position. I think it would be useful for us to have your view as to whether it is five per cent or 25 per cent. What is the scale of the problem and is it going to be as Senator Evans has suggested? Is it going to be addressed by this new regime?

Ms Vilgan—I actually tend to have a bit of a chuckle when I hear about the choice regime as a whole, because what do you do with people when they are 55, 60 or 65? Do you send them out to the market? That is what we are doing now. It is really bringing that decision earlier when perhaps, if they make a mistake, it is not so drastic. I guess it is building up their level of investment knowledge and knowledge of their products from 25, 30 or 35, instead of 65. That is one of the benefits that we actually seek. You have choice now; it is just at a different age.

Senator ALLISON—From what you are saying, I gather that there is some reliance on this new regime, if I can use that word again, as being one in which more people will be better informed, that there will be better choices made earlier on and that is really the major area of benefit. Is that what you are saying?

Ms Vilgan—I guess, as I said at the start, one of the benefits could well be that members own their superannuation more and take a bit more time to understand it from an

earlier age. There will be some rationalisation and people will move out of funds that are probably good for them and funds that are bad for them. It is hard to say, at the end of the day. The effects may well cancel each other out. But it is letting people do that much earlier and getting to understand their super. So that will be of benefit.

Senator ALLISON—Can you just briefly clarify what you touched on earlier about the different arrangements between the Commonwealth and the states? Did you raise this with government when you had discussions?

Ms Vilgan—It has certainly been raised in our various documents, workshops and national seminars. It relates to the fact that the federal provisions have exempted state award employees and the states have done different things in their awards. For instance, WA, from 1 January this year, has allowed choice of funds. It is already over in WA.

In New South Wales and Queensland, there can be choice where the employer agrees. We think it is going to be difficult to have a national education campaign when there are different workers doing different things or have rights to do different things. That is where we would like the clarification between Commonwealth and states.

Senator ALLISON—Have you any idea where the government is at in terms of its discussions with the states?

Ms Vilgan—I do not know specifically, no.

Senator ALLISON—But that would be another reason why you think this could not be introduced by 1 July 1998?

Ms Vilgan—Yes.

Senator CONROY—I wanted to come back to the public education campaign question. Your organisation has probably been the most vocal and most educative over many years in terms of the industry. Everyone who has appeared before us has said that it is very important to have this public education campaign. Surely at some point, though, there must be a test of whether or not it has been a success. There is no point introducing choice, if the education campaign has been a failure.

You heard me ask earlier about the Telstra call number, the call display, and while the witness suggested privacy was not the same issue as financial security for retirement incomes, I would probably argue that the worst outcome of having your phone number flashed around is that you end up getting a lot of extra mail you do not really want. The worst aspect of not being informed about your choice is hundreds of thousands of dollars less in your retirement income. So, I think it is a more important question. Should there be some sort of test? Everyone is saying we should put it off and miraculously during the year there will be a sea change.

Ms Vilgan—No, not in any sense are we saying that. We are saying we want legislative certainty now and a delayed start date to allow some of the education. I believe it is extremely important to test, and I will give you one example. Although extremely well

meaning, the tax office advertised for people to send their tax file numbers to their superannuation funds. There were lovely ads in the paper with blank spaces for people to fill in and post off. Funds got these things with no one's name on them, but there was a lovely tax file number!

So, yes, it is extremely important to test and to go back and refine, and also to understand that different markets understand things in different ways. The ethnic community requires a different campaign. You can be very well meaning and miss the mark.

Senator CONROY—Should there be a trigger? With the Telstra thing it is 80 per cent. Eighty per cent of people have got to be able to demonstrate they understand the consequences of the calling number display. Should there be a similar test for choice, a trigger, before it is foisted on people?

Ms Vilgan—I could certainly say yes, but you are only talking of the results of an opinion poll there.

Senator CONROY—On a different issue, I am concerned about how the package is going to be constructed. What will be in the four? Who picks what is going to be in it? Presumably service providers are going to walk up and say, 'Here is our package.' Now, it could be a set-up. It could be three shockers and one that is not quite as bad. If the employer has no liability and does not care, just says, 'God, make it go away. Here are four, give them to the troops', what test have we got? What suggestions have you made to the government about some sort of—

Dr Anderson—I would question that the employer had no liability in that instance. If you read that clause which is supposed to protect the employer, it says words to the effect of 'in carrying out this legislation'. This would mean choosing four, and choosing four means looking at what is best for your workplace. Employers have always had that obligation to choose a fund which was appropriate for their workers. They have always had that legal obligation. This is not new with choice, and that fund that your relative has been put into looks to me to be quite inappropriate and the employer might have some legal responsibility there.

One of the problems with that particular clause is that employers have to be told what it really means. That is the sort of information campaign we would definitely need because it does not mean they can walk away and just get any old fund. In fact, they would have to take care to choose four appropriate funds, just as at the moment there is a duty for employers to take care to choose whatever fund they are offering to their employees.

Ms Smith—We mentioned earlier that the scope of a complaints body needs to be rethought, not only in terms of the demise of the existing one but in terms of the new regime. Those are some of the questions that are likely to be the new sorts of complaints that come forward and we need a mechanism to think about that quickly and in a fair and a low cost fashion.

Senator CONROY—So this is part of the ongoing discussions yourself and the government and other parts of the industry are having?

Dr Anderson—I have raised this informally with the people who are setting up the ACFSC and looking at the gateway for disputes. I mentioned there, informally, that I saw this other area as not having a clear path for quick, cheap, effective and fair dispute resolution. I cannot quite see the ATO's role for compliance dealing effectively with these sorts of issues.

Senator CONROY—It is the small business owner in particular that I am worried about who is going to be hit by the potential fly-by-nighters. They will come bowling in and say, 'I can fix your problem. Here is the package. Sign up. Go for it.' I am thinking about a situation where there are two or three employees. Big business will not have that problem, but small business operators are going to be vulnerable to the spivs coming in and putting the hard sell on them.

Ms Smith—They need the information education campaign themselves in terms of how to profile their employees, what types of schemes might be appropriate for their employees, how to choose themselves, let alone the public at large.

Dr Anderson—It applies too with employers. Even if they are offering unlimited choice, they must have a default. The legislation says the default is any regulated fund, but if you look at the duty of care that the employer would normally have, then the employer has to really choose one that is appropriate. As I say, that is the case now and it remains the case.

Senator CONROY—On page six of your submission you are recommending that the definition of industry based super fund be amended. I was interested to see that you did not specify, as is generally the case with industry funds now, the not for profit basis. Why is that?

Dr Anderson—There was a great deal of discussion about that. Although we definitely understand the concept, and everybody understands what an industry fund is, to try to define the 'not for profit' within a trust arrangement for those which have a commercial backing is rather difficult to do. I think at that point we declined.

Senator CONROY—With the common understanding of an industry fund as it now stands, that is one of the key central features.

Dr Anderson—Yes, it is only the definition of what that 'not for profit' would mean to something which we do not at the moment call an industry fund. If a fund is provided by a large insurance company or something else, it still must have a trust structure. It is hard to talk about the 'not for profit', or that it is 'for profit', within that trust structure. It is a definitional problem. That is why we moved away from it.

Senator CHRIS EVANS—I want to ask a fairly general question. I see ASFA's submission says it is in favour of employee choice. This committee has received no evidence of any demand from employees for choice. We have been given no benchmarks for success of the choice regime. Everyone has stressed to us the need for a long-term education program given the lack of knowledge of how superannuation works currently. We have been given no proof that choice will provide better outcomes for individuals. What we have been

given is some vague notion that choice will provide ownership of their fund and therefore a more informed member.

Given the lack of compelling evidence as to the benefits of choice, would we not be better off with a more prudent first step along the choice regime by perhaps making mandatory choice of investment strategies within existing funds, or some incremental step that might be a more prudent advance of public policy and superannuation, rather than this quite gigantic step which does not seem to be, on the evidence so far presented to this committee, supported by a lot of compelling evidence? Does ASFA have a view about whether mandatory choice of investment strategy within funds might not be a better first step?

Ms Vilgan—It is certainly one step that would go towards some of our issues relating to ownership but the members would have to be more actively involved. It still probably does not deal with the fact that some people do not want to be in those funds, I think. It probably still does not deliver some of the competition between the industry.

Senator CHRIS EVANS—Given that is your position, what have you got to say about exit fees? The important thing for this choice regime is the claim that people will now be able to choose. But first of all, they are not, in fact, allowed to move their existing balances. I would like to know what ASFA's view is about that because it seems to me we are going to have mass duplication of funds. If people are not happy with their current fund they will move to a new fund for their future balances. But in a large number of cases, they will not be able to get out of their existing fund because of exit fees. This is an issue which has worried the committee for some time—exit fees and what you are saying to us about them. What do you think about this existing balances question? Should we be legislating to allow full portability of existing balances from the start-up date of choice?

Ms Vilgan—ASFA has never been in favour of a multiplicity of superannuation accounts. It has always been our view that people should try to amalgamate their superannuation. The notion of having contributions going somewhere and an existing balance going elsewhere is contrary to everything we have always said.

Senator CHRIS EVANS—That is an impact of this new regime, isn't it?

Ms Vilgan—At the moment, yes.

Dr Anderson—Our understanding is that the compulsory movement of the balances would be the next step, perhaps. Before there was any compulsion we would also be continuing our campaign to get people to voluntarily move them. We have been very vocal in the industry to actually make it easier for people to do that voluntarily.

Senator CHRIS EVANS—But the short-term impact is likely to be proliferation of more accounts, isn't it?

Dr Anderson—Which is something that we do not like, so we—

Senator CHRIS EVANS—No, I acknowledge ASFA's role in encouraging amalgamation of accounts, but what does ASFA say these days about exit fees?

Ms Vilgan—It is my understanding that a fund cannot charge exit fees now when it receives super guaranteed contributions.

Dr Anderson—That is in the small accounts.

Senator CHRIS EVANS—I am talking about people in existing schemes—company schemes, wherever—with exit fees.

Dr Anderson—Right. I think with a choice regime, you would see market forces well at work there with exit fees.

Ms Vilgan—It has probably been predominantly in personal superannuation that there have been exit fees, not so much company or industry superannuation.

Senator CHRIS EVANS—No, I accept that. All right, market forces. I have another question—although I do not want to be seen to be flogging a dead horse about the thing I am trying to float with standardisation. I think you were here when I was talking about standardisation of fees and charges: not standardisation of the fees and charges, but finding a common scheme by which charges are levied so that comparison is easier. I am a bit concerned about this KFS proposal about how you get to compare apples and pears. I think the actuary and others have done a lot of work on that but I am still not sure that we are going to get there at the end of the day. What is ASFA's view of the proposition to standardise fee structures?

Ms Vilgan—It would be very difficult to have standardisation of fee structures because you have different super funds. You have defined benefits and accumulation funds and people making voluntary contributions and having death and disability insurance. The set-up costs of every fund are different. It should, however, be possible to require funds to report in a similar manner. For instance, in the retail market, it is quite common to report on a management expense ratio—an MER—so that people have a common comparison. I am not sure there are too many industries where the government prescribes that only this type of fee or that type of fee can be charged.

Senator CHRIS EVANS—This whole superannuation system in fact represents the privatisation of taxation in some ways, but I accept what you are saying. I just wonder, though, is ASFA confident that KFSs can be designed so that a normal, reasonably intelligent person can sensibly compare the variety of funds on offer?

Dr Anderson—We have been doing a lot of work on the KFS question at the moment. We have come to the conclusion that you have to start saying to people, 'What effect will the sum of the fees and charges have on my benefit?' Somehow or other, you actually have to get to that point where people disclose everything that will have an effect on the fees and charges. We have played with the notion of trying to illustrate the effect that it has on fees and charges as well.

The ISC is not all that comfortable with this, and I am not sure that we have got it right yet. The drawback with that was that people then saw it as an illustration of the benefit level they would end up with, whereas what we were trying to do was show them what the fee does. First of all, we tried doing it with the contributions: what do the fees and charges do to the contributions that actually hit your fund? What does it do to your benefit? It is a difficult one, but that is the sort of line we are trying to pursue at the moment so that people can clearly say, 'If I'm in this fund and that's the benefit, this is what the fees and charges are going to end up doing to it.' I agree, it is not an easy one.

I also agree with the actuaries, though. If you try to put it in too many boxes, you will end up with people not trying to find lower fees and also with them trying to move in interesting ways around the boxes. It is a dilemma.

Senator CHRIS EVANS—If we are going to say that you have to contribute to superannuation and you have to choose, then we have got to get that right. It seems to me that that is key to the whole thing.

Dr Anderson—We have to find a way to do that right, without making it so constricted that people cannot be innovative. We do want that, as well.

Ms Smith—That is why we have a lot of energy at the disclosure end on the key features statements, because there has to be a lot more work behind that—as Michaela Anderson was saying—on how the figures are derived and on the consistency and uniformity of those figures. Some support from this committee about the desirability of that consistency of reporting would be useful, because I am not sure that the drafts we are seeing from the ISC fully appreciate the need for that uniformity to be there. That then opens up problems about how things are sold and about how people interpret things.

CHAIR—This matter has been put very strongly to the committee at earlier hearings; the committee is very aware of the issue. While the committee has taken very strong stands in relation to fees and charges in the past, the whole thing has to be put in context in relation to a key features statement, because some particular providers have very low expenses because of the nature of the way they out-service some of their requirements, and it gets reflected in the return. If you are going to go right back to the subsidiary service providers, looking for costs and charges, I think we are going down the wrong track.

At the same time, the emphasis has to be on return: a consistent return and an impact on return over a reasonable period of time. One of the big problems is short-termism, in that products might be sold on that basis, or just on the fact that they might have low fees and charges, whereas another product might have a much better return consistently over the long term. It is not an easy question, but we have had some very informed opinion on this.

Dr Anderson—That is a very important point that you are making: in fact you cannot judge the fund just on the fees and charges, but on a whole range of things. That is what makes the education so crucial to this whole issue.

Senator HOGG—Do you have any surveys done on what will motivate people to get out of their existing fund and swap to another fund?

Dr Anderson—No.

Senator HOGG—Do you have anything that says that the key thing is charges, or that the next issue that they might consider is investment return? Do you have a rank order there?

Dr Anderson—I think that the industry funds actually did some work around this issue. I am afraid I cannot call it to mind exactly at the moment, but that might be where you would look at things that interested people in their super funds and, if my memory would just come back to me, it seems that it had some surprises in it regarding what actually people focused on. But I suggest that you try to see some of the industry funds.

Senator HOGG—So how could they be reflected in the key features statement? That is what I was leading to.

Dr Anderson—Yes. We talked to the tax office about the need to know what people want. Where we need to educate them if they are not looking at the right areas is another issue.

Ms Vilgan—It is really the return after fees that is most important. The fees you pay could be small or large and the investment return may be small or large. At the end of the day it is what gets added as interest to your account, the net increase in your account. It is probably not so much an emphasis on educating people about picking the lowest fees, but picking the best return and fee combination, and we may have to show that. We may have to show that this is expected, or that aims to return three per cent above inflation and that fees will be one and a half per cent. So you are going to get one and a half per cent above inflation. It is the return after inflation. That is the only thing that matters to the person at the end of the day—return after fees.

CHAIR—There is another factor. There is the potential for future risk, and somehow that has got to be built into the equation because you can have a very high return where people might be attracted to it, but it might not be sustained in the long term. How are you going to build that into your equation?

Ms Vilgan—Certainly in selecting the return you are picking a risk profile—

CHAIR—But somehow that has got to be in the key features statement because we have seen that in terms of performing managers. Yesterday's performing managers are not necessarily today's or the future ones, and that is not easy. But somehow I think that that risk factor has got to be built in.

Senator ALLISON—I have just one quick question going back to the rationalisation of the industry. I am not sure what the situation is at present, but is it your view that this rationalisation will attract multinationals into the field in Australia, or are they already here? What sort of shift are we going to see in ownership of super funds?

Ms Vilgan—Probably the multinationals are here at the wholesale end. They are starting to arrive. The overseas fund managers are starting to arrive at the wholesale end looking for funds of trustees of super funds. I have not seen a huge amount of evidence to say that they

are coming in at the retail level yet. I do not expect to see lots of company funds go out of existence if they do not want to. If they are offering a good product that meets what their members want, they should well survive.

Senator ALLISON—Do they do enough advertising?

Ms Vilgan—No, not necessarily. People trust how it is being run so they have got some say in it. They know that their employee reps are sitting on the board. It does not offer all the bells and whistles of the other product so you are not paying for them. Some of the company run funds could well be very reasonably priced because they are not having to advertise necessarily. So if they know what their members want, they should well survive, and if they want to survive, they probably can, but I have not seen evidence of the multinationals at the retail level. Certainly the big US fund managers knock on my door regularly, but at the trustee level.

CHAIR—Thank you very much. We have gone well over time again. Thank you very much for your evidence and we look forward to further stats. Can you give us something further on building risk into the KFS?

Ms Vilgan—Profiles?

CHAIR—Yes. Thank you. We will have a short break.

Proceedings suspended from 11.05 a.m. to 11.24 a.m.

CHARTERIS, Mr Peter Hamilton, Partner, Phillips Fox Actuaries and Consultants, 255 Elizabeth Street, Sydney, New South Wales

CONNOLLY, Mr David, Director, Superannuation and Government Relations, Phillips Fox Actuaries and Consultants, 255 Elizabeth Street, Sydney, New South Wales

CHAIR—I now welcome representatives from the Phillips Fox Actuaries, particularly the partner, Mr Peter Charteris, and Mr David Connolly, Director, Superannuation and Government Relations. I welcome you both and remind the committee that Mr David Connolly was a distinguished member of the coalition and spokesman for coalition superannuation retirement incomes matters. Mr Connolly, you are one of the few people who has been able to pursue your career after parliament in your desired speciality. We welcome you and the contribution that you are about to make.

Mr Connolly—Thank you very much, Mr Chairman. It is a pleasure to be here. Having been on the other side of the table for 22 years, it is a new experience. At least I am in a field where I claim some knowledge, and it is a great pleasure to have my colleague Peter Charteris here. To put it in its simplest form, I am the strategist and he is a detail man, so you can work on that basis in terms of any questions you may have.

Like you, we have studied very carefully the submissions that have been put to the committee by ASFA and IFSA, the two organisations representing the industry; and because our practice essentially spans both industry funds, the major providers as well as individual superannuation funds, we in a sense agree and disagree with some aspects of both submissions on some of the key issues. Equally, we agree with a substantial amount of both submissions.

We have tabled for you two letters, one on draft fund choice legislation and a second to the Assistant Commissioner, Policy, of the Insurance and Superannuation Commission. That was a response to the commission asking us for our comments on a discussion paper.

In terms of the substance of the issue, I would like to commence by referring to a comment by Senator Evans when he asked a question of the previous witnesses as to why we need choice. Perhaps I should put that in its context. Essentially, choice is the logical second step after the introduction of the superannuation guarantee charge. Having instituted a compulsory environment for the collection of superannuation, the next step in the process is to say to people, 'If the government is going to require you to contribute to your requirement income, surely it is not unreasonable that you should have some say as to where those funds go.'

That, of course, falls into two categories: there is the choice of fund and then there is a choice of investment strategy within funds. I suppose you could have a subset from that and say that the third component is to provide full portability. Again, that is provided for in the overall policy. My understanding is that that is still government policy and will come into place by the year 2000.

The other important consideration to remember in terms of Senator Evans's question is that we are not exactly piloting a ship without some sort of map. The map, such as it exists, in fact was based on the American 401K plan experience. While their system is fundamentally different to Australia's in that it has an underpinning of a national pension system which is universal, nevertheless the application of the 401K principle in the private sector and the public sector in the United States quite clearly demonstrates that they are about 10 years ahead of us when it comes to education, information and the general awareness of financial matters within the community as a whole.

That probably leads us to the other issue, that is, the question of information and education. That is a key issue which you may wish to address or to ask us questions about because we have been involved in working in that area with the tax office.

I would like to refer to a couple of points we raised in our specific document. Firstly, we raised the issue of default funds. The four default funds in relation to an informal agreement is something that we think needs to be revisited. The informal agreement is going to be one of the key components of the full choice menu, but it is not entirely clear in the legislation, as it is currently drafted, as to whether or not, if a person chooses to take a fifth choice—for argument's sake—and the employer, for one reason or another, declines to accept that choice, the person then falls back into the four-choice menu, which effectively means that those four choices become default choices, that they have no other choice, or if there is a case for the employer then determining one choice as the default choice. It is an interesting issue, but it is one which is going to arise and is not adequately covered.

The second issue is the question of choice within 12 months. That is covered in section 32K—and, frankly, it does not apply. Peter Charteris will be addressing that in greater detail.

The third point I want to refer to briefly is the question of gaps in insurance cover. Evidence on this has been given to the committee previously—we are aware of that—but we would like to reiterate that, in our opinion, this is one of the biggest problems, for a number of reasons. Firstly, it is important to remember that in industry funds the average level of contribution is currently just less than \$3,000. In the case of many company funds it is substantially higher—\$25,000 to \$30,000 is not an unusual figure. But for the vast majority of the work force, their access to some insurance cover is of critical importance because, in the event of somebody going under a truck or having to access TPD cover and so forth, it is the difference between having to access the welfare system indefinitely or having at least some basis of financial independence.

It was for that reason that I put in the original coalition policy the proposition that there should be a universal and compulsory minimum level of insurance cover. I am saddened that that part of the policy has not apparently been taken up—I might add that I think it is the only part of the policy that has not been—and I am saddened to see that the industry representatives also do not support that proposition. I hope that you will investigate that in your questions to them, because the argument that I have heard is to the effect that, if insurance were compulsory, it would raise issues about individual health cover and so on.

That is a contradiction in terms of the structure of the system. It is also, as I see it, inconsistent with the provisions in life insurance legislation at the moment, which does give adequate protection to a provider in the case of AIDS et cetera. Nevertheless, unless we can, in legislative form, overcome this problem of the insurance gap, which is going to be exacerbated by the 28-day rule—as you know, there are 28 days to make an offer, 28 days to receive an acceptance, followed by a further two months, which effectively means that a person could be out of cover for up to four months—then to seriously suggest that any insurance provider is going to give cover without previously being paid a premium for that length of time is absurd, because it will not happen.

That also raises the issue of the default fund in that context. As it currently stands, the default fund does not have to provide insurance cover. Again, I think that is an issue which you should address critically, because there is a strong case to argue that the default fund ought to contain a component of insurance cover.

The sum I was talking about initially was literally one dollar a week—it is hardly a fortune—which gives around \$45,000 of cover for people under 45. Unfortunately, there are thousands and thousands of young Australian families who are heavily mortgaged and so forth, and totally dependent on the income of a sole breadwinner, and to whom \$45,000 is a lot of money. The alternative to that may be, at best, a \$2,000 or \$3,000 superannuation payout, especially to someone who has not been in the work force for any length of time. On social terms, on financial terms, on equity terms, I think there is a very strong argument to be said for requiring a compulsory component of life insurance.

I want to raise—and Peter will be referring to this in greater detail—the question of industrial relations issues. It surprised us that, in both the representative submissions, industrial relations has received remarkably little coverage. This is a serious issue. I draw your attention to a paper which was recently presented at a conference in Melbourne of the Law Society by Dr Smith of Clayton Utz, solicitors. He identified the range of alternatives, especially in the area of CAs, which do not appear to have been covered. These issues are important.

CHAIR—Can you just explain CAs?

Mr Connolly—Certified agreements.

CHAIR—Thank you.

Mr Connolly—There has been a government bias in favour of AWAs, and I am not convinced that there will be many AWAs. On the other hand, there is a large bias within the provider side of the industry in favour of certified agreements. There is a presumption that certified agreements are ‘easy’ to negotiate. They may be ‘easy’ to negotiate. The question is whether they will stick. That is going to be one of the big issues in some of these areas because, having opened the door to negotiation, how you limit it to superannuation is one of the very important considerations.

In terms of federal law, if you are not a member of a union, to what degree are you covered by a CA which involves the union negotiating with the employer? Will it hold? These are issues for which there are no clear answers, but they need to be addressed in terms of the risks which must be faced in that particular context.

CHAIR—Can you give us some solutions or alternatives, perhaps in a separate paper?

Mr Connolly—Yes, we can do that later. The third point I want to make in that context is the impact of CAs on what is called the no disadvantage test. As you are aware, under the previous industrial relations arrangements, superannuation was one of the 20 principles which could be reviewed. They are going to be cut back to 19 and superannuation has been taken out. That opens up the issue, therefore, as to whether the no disadvantage test, which applies across the full range, will also apply to superannuation. There is a body of opinion that it will.

If the no disadvantage test applies, the principle is that if you are part of the 49 per cent whose choice has not been accepted in the case of a certified agreement—the certified agreement principle will normally apply to an industry fund arrangement, in most cases because it will be in the interests of the union to establish that—that opens up the issue of what happens to the other 49 per cent if somebody claims a no disadvantage test. That issue goes to the advocate, who will make a determination as to whether they were fairly treated or not.

This is a very long drawn-out process. It is not something you can do in five minutes. I fear that the interface between the industrial relations package and its implications to superannuation may require further consideration.

Mr Charteris—As Mr Connolly correctly says, I am a detail person. In our letter to the committee and the accompanying letter, the first two points are really technical points. I do not think I really need to address the committee on them. There is an issue of what happens in informal agreement. It just does not work when you track it through properly. I suspect other people have raised the same issue and I simply ask that those matters be referred on to those who are reviewing technical deficiencies.

As to the second point, the ISC has not addressed the implications of the way cooling off will operate in the context of fund choice because of the change in the way the whole regime will work. I believe some consideration needs to be given to that.

The next point is arguably a policy issue. The way the legislation is drafted, people are enrolled in employment on a daily or regular basis. That means that in 12 months they are entitled to demand an offer of choice. From an employer's point of view, it means they have to have a system in place to handle requests on a regular basis. Also, if there is a run in the market, people who had been inactive can immediately trigger a request for choice. An employer could then get inundated with requests for choice because there has been a massive market movement.

It seems to me that there ought to be the possibility for employers to nominate a period each year and effectively have an open season for change of choice. It would need to be selected by the employer. You would not want the same month in each year applying to all employers, otherwise the superannuation funds could not cope with the changes. Some further thought needs to be given to the demand on employers to cope with administrative requirements on an ongoing basis.

Unlimited choice in its current form is simply too wide. There are major compliance issues in accepting choices of DIY funds. Employees will give you notices that will not even be from a fund. They will be from the family trust or just for some bank account.

However, if you restrict unlimited choice by simply excluding DIY funds, it could then become very workable. Large numbers of employers have good payroll systems where they can simply pay anyone, so the payment process is not a problem. There are a number of banks that are offering these payment procedures—all you need is the BSB number. What employers do not want to have to do is go through a compliance regime to check that the fund is a complying fund. If you rule out DIYs, that problem pretty well goes away.

You would hear in the public arena, if a large fund had ceased to comply. On that basis, it would become a much more viable option. Employers would then only have to select one default fund, employees are free to choose as they would like, and one has sought to minimise the compliance problems from the employers' point of view.

The final point raised in the correspondence is the question of entry and exit fees. I believe the current ISC requirements as to disclosure of entry and exit fees are not meaningful for most employees. More work is required in this area, and examples of how it applies are probably required because employees will simply not understand. Whilst the determination requires accurate disclosure of management and expense ratios, entry and exit fees are excluded from those calculations and, in its current form, it is simply meaningless.

I have in mind that there would be some examples required, say, two, three or five years out. Long-term entry and exit fees do not matter: it is the short-term when people are persuaded to change between funds. Sure, tucked away in their brochure somewhere will be what the fees are, but that does not mean anything unless you apply it to monetary amounts so that people can examine what it means. They can then see that the fee for a \$10,000 account is so much, and they can say, 'My account is \$13,000, so that is about me,' and so they can work out what the fee is.

This is a very important area, because there will be pressure to switch funds; and education in that area is going to be critical, if people are not to waste their savings through bowing to pressure. There will simply be people who want to move for the sake of moving, because they will perceive something to be better—whether or not it is, who knows?—so there will be a movement by members. If they do not appreciate the costs involved, it could be very expensive.

What I did not address in the papers—partly because I had not really thought it through, but I have since spent some more time looking at it—is the issue of exclusions by virtue of industrial agreements at the federal level. There are in fact at least four different types of

industrial agreements that exist at the moment. They are pre-1997 agreements, division 2 and division 3 certified agreements, and Australian workplace agreements.

The pre-1997 agreements only apply to union members. The consequence is that an employer could think they were bound by an agreement for all their membership and that therefore choice did not apply, when in fact it is only for the union membership. I am not aware of any basis on which an employer would be entitled to find out whether or not an employee was a union member. They might have some idea if they are paying the union dues; but those are by no means the only circumstances.

The same issue applies for what are called division 3 certified agreements. Again, they only apply to union members. Division 2 certified agreements should not be such a problem, because they only apply to constitutional corporations and, hopefully, the employer knows whether or not they are incorporated. The consequence of that is that there are some real compliance issues in that area in determining whether or not fund choice applies. You can have two people doing the same job, and fund choice applies to one but not the other. More work is required in that area. I note the chairman's comment that we should give some further submissions on that.

The final point I would like to make is that there should be compulsory portability. It is not an SGC issue; it is an amendment to SIS issue. There is compulsory portability in the RSA legislation, and I believe legislation along those lines should be incorporated into the SIS legislation.

CHAIR—I am very pleased you raised this question about excluded funds. We had a witness yesterday who was fairly enthusiastic about choice being able to extend to excluded funds. I think your warnings there are very timely. There is a problem, and I seek your legal advice in relation to including an excluded fund. If an excluded fund becomes a non-complying fund after the KFS has been presented, there does seem to be an obligation imposed upon the employer to notify that at an early opportunity, because the tax consequences of that could mean the loss of 50 per cent of the investment assets of that fund.

Mr Charteris—Both the SGC legislation and the Income Tax Assessment Act provide for the ability for the trustee to give a statutory notice that it is a complying fund. Unless you are on actual notice, that notice is effective. The problem is that you have to get that statement: you have to make sure that statement is actually given by the trustee of a superannuation fund and not given by the next-door neighbour on behalf of some bank account. Once you get the notice, it is not a problem; it is the compliance issues required in obtaining that notice that are the problem. I might add that DIYs can always been done through an informal agreement.

CHAIR—But aren't there problems with it? I have some concerns about bringing DIYs into this choice regime. In many respects, DIYs find it very difficult to comply with all the requirements of SIS now.

Mr Charteris—DIYs should be eligible for fund choice; otherwise, it is an arbitrary exclusion. But an employer should not be required to accept a DIY. With unlimited choice, the employer is required to accept the choice nominated by the employee; they have no

choice. Whereas, with an informal agreement, they have to agree. If they do not want to be involved in DIYs, they can say no. If they are happy to be involved with DIYs—in other words, they are prepared to go through the requirements to get the statutory notice from the trustee and take the risk it may not be a trustee—then they may agree. My concern is that, with unlimited choice, they are forced to accept something that creates compliance problems. It should be purely voluntary between both parties.

CHAIR—What about the obligations of an employer to ensure that in particular a DIY fund is a regulated fund? What do you believe is sufficient? Does he have to get official notice from the ISC that it is a regulated fund? How does the employer protect himself? Is his liability open? That is implied in your submission. I think it is a good point that you both made.

Mr Charteris—The employer is liable if it is not in fact a superannuation fund at all. The employer is liable if it is a non-complying superannuation fund and does not have the statutory notice. After the first year of establishment, the ISC issues a compliance notice. An employer, after year one, could rely safely on the copy of that notice, together with the statutory notice given by the trustee that it is still a complying fund.

CHAIR—Are you suggesting that every employer ask for a complying notice from the ISC to protect his position, otherwise he has got a problem?

Mr Charteris—Yes. A prudent employer would ask for a copy of an ISC notice. Once they have got an ISC notice, they know that at least it is a superannuation fund. They do not know at that point whether it is complying or not; however, they can obtain the statutory statement by the trustee as to compliance. They do not then need to be concerned with whether it is in fact complying, unless they obtain actual notice that it is not complying.

CHAIR—All this information has somehow got to get back to all the employers right around the country. How best can we do that?

Mr Charteris—I believe that if you exclude DIYs from unlimited choice it is not such an issue, because the employer is no longer forced to accept such a fund. They have to consent to such a fund. If they are willing to consent, hopefully there will be sufficient in the general education process to cover that—although I must admit that, at the moment, I rarely see any commentators pointing out what you have to do for a DIY to make sure that you do not have a problem as the employer. In answer to your question, there does need to be further education, even assuming my suggestion is adopted.

CHAIR—In relation to this cooling-off period, is that not going to create a problem in relation to the 28 July deadline? It will make it so much more difficult for people who enrol or join the company in the month of June, so far as the employer is concerned: with a cooling-off period, he is going to be outside the 28 July deadline. There are going to be inherent problems in terms of compliance, aren't there? Do we need to rethink that 28 July deadline and have some other formula—so many days or so many months after a person joins the fund—in lieu of 28 July?

Mr Charteris—The first problem with cooling-off is that it does not apply in all circumstances. Cooling-off normally only applies where the member joins a fund, rather than the employer, but it is not the case for RSAs: it applies where the employer enrolls the member. It is the inter-reaction between cooling-off sometimes applying and sometimes not, in the context of a nomination being made and the employer tendering the money to the fund, when the employee has given notice to the fund that he or she wishes to cease to be a member.

I think it needs to be made clear at least that payment in after a cooling off notice, where the employee has nominated the fund or it is a default fund because they may not nominate but decide to exercise a cooling off right because it happens to be a default fund to which cooling off applies in those circumstances, is still a complying contribution.

CHAIR—So you do not think we need a change?

Mr Charteris—Yes, we do need a change. I do not believe it has been addressed at all.

CHAIR—I believe it needs addressing because if you have got a cooling off period we could have employers up for the surcharge, and all the consequences of payment to the tax office and then finding a fund. There does seem to be a need for some sort of changed formula. Would it be possible for your group or some other group to address this issue? I think the committee would like that.

Senator HOGG—I will follow on from that because it is an issue that I have thought about briefly. It may be that a way around this problem of 28 July, and the problem around the insurance cover, is for all new employees to be taken into a default fund, regardless. You then apply the 28 and the 28 and they go through the process of exercising their choice and they then move from the default fund into the fund of their choice. Is that a way to overcome the problems of insurance and the problems of 28 July?

Mr Charteris—The problem from the point of view of the trustees or an insurer, more importantly, in that context, is that they would certainly want a contribution to cover the cost of premium. If it does not exactly match the premium then you have got a small account balance that you have got to deal with when the person makes a nomination. If it does not exactly match the premium, you have a surcharge liability when they roll out or you may have to address a surcharge liability. The surcharge liability should follow the contributions out.

Senator HOGG—I understand that but it is a fairly clear-cut sort of system about which there is no doubt. I mean it may well mean that the issue of which fund is the default fund needs to be thought out more clearly. But there is no doubt that from day one the person, if they are eligible for the SG contribution, is in the fund and they are eligible for their insurance benefit. That seems to be a key important issue and no-one seems to be able to come up with a mechanism for addressing that. I understand there may well be some warts but these are early days. It is a suggestion.

Mr Charteris—Yes, I believe you could do it. There would be a high administrative cost in doing it because of the double handling that would result.

Senator HOGG—What sort of charge would you see that would make it prohibitive?

Mr Charteris—The cost of processing the transfer out of whatever monies remain of that initial contribution, and also you would have to amend the SG legislation because you are not required to make any contribution until 28 July after year end.

Senator HOGG—But, in many instances, would not the default fund be the fund that the person would be most likely to stay in anyway so that the problem of administrative charges is not necessarily going to be there? I would think there is need for some research in this area as a means of looking at the behavioural patterns of people, and how their behaviour may go and react to this type of arrangement. It may well be that, in the longer-term, it is the most cost efficient way that you can do it even though it seems to have some administrative charges. If you could give us some idea of what administrative charges you see operating that would be appreciated.

Mr Connolly—The only other alternative to the insurance problem that anyone has come up with, and again it has problems of administrative costs, is to allow an employer to establish a separate stand-alone fund which would be, in terms of the law, a superannuation fund which would pay out the premiums for the insurance cover, irrespective of the superannuation component. The problem is really an accounting problem in how you ensure tax deductibility when under the current law insurance or TPD payments are seen as part of the superannuation stream whereas under that system they would have to stand alone because, as I said earlier, under the existing arrangements for default funds there is no requirement that you have to provide that level of cover or any cover.

Senator HOGG—Given that there are going to be those problems, and given the problems with the administrative charges that you have mentioned, is that a possible solution to the 28-day problem and the insurance problem?

Mr Connolly—Yes, I think it is a viable option provided the administrative cost element can be controlled.

Mr Charteris—There would have to be a contribution requirement. I cannot see it working without a requirement to contribute to cover an insurance premium at least for the default period.

Senator HOGG—I accept that.

Mr Charteris—Otherwise there would be fund selection and phantom labour forces and employers would only have two-thirds of their work force covered.

Mr Connolly—It really is an all-or-nothing situation, become the phantom membership problem is very real unless, when an employee joins, they sign the piece of paper. You have to ask the question, ‘Are you sure that you can guarantee that?’ And unless you actually put down the date on which the agreement is made, two months down the track the guy goes under a bus and the benevolent employer just changes the numbers to suit the situation. That does happen. So you can see the implications. That is where the election component comes

in. There is no way you will be able to minimise your premium levels, which is the big advantage of the current system, unless you effectively have a universal application.

Senator CONROY—Perhaps I had better take you up on your invitation to comment on the evidence of some of the previous witnesses and some of the issues that they raised. Every witness has stressed to us how important the public education campaign is, and the need for it, before the implementation. Many—in fact I think all bar one or two—have suggested the need for a deferral of the 1 July date. I am just interested in your views on those two points, and the questions which I posed to the other witnesses: isn't it critical that the education campaign be a success, and how do you measure that? Should there be a trigger, as you may have heard me talk about earlier, with the calling number display? The government is committed to saying, 'We won't introduce it. We won't give the go-ahead unless we're confident.' Eighty per cent is, I think, the trigger figure. I am just interested in a couple of comments on those issues.

Mr Connolly—Referring to the question of deferral, you can certainly create an argument for a deferral of the system, but there is in fact a middle road, as there often is. I think there is a case for the passage of the legislation within its current stipulated arrangements but perhaps, say, 31 December this year—or some appropriate date like that—could be the start-up date. I am genuinely concerned whether we will be able to get in place the necessary information and education system between the passage of the legislation, which may not be until after Easter, as I understand it, and 1 July. A six months extension, effectively, in its application would make life a lot easier. Now what that could mean is, if you are in a scheme which can start on 1 July well, great—off you go—but those who cannot would have a further six months to get their show in place.

It is very interesting to look at the numbers on this. I think the figures I took out were that 2.4 million people change jobs every twelve months. Then you have the component of first-time workers coming in which is, over the period, approximately a quarter of a million. So between now and the year 2000 you are looking at at least five million people, which is the vast majority of the work force, who are going to be in the system.

I think that if it means a six-month delay for those who are having problems—and I think there will be some problems, legal interpretations alone will create that—there is a case for a limited period to be provided for that purpose. But that would not change the timing for passage of the legislation.

Senator HOGG—You mention 2.4 million new employees each year.

Mr Connolly—No, not new employees, transferring employees.

Senator HOGG—Transferring, changing, swapping. Where do you put casuals—

Mr Connolly—Good question.

Senator HOGG—for the purpose of this legislation?

Mr Connolly—Frankly, there are three components: part-time, casual and temporary. There is a case put in the Smith paper which I referred to earlier that these people are on a 24-hour contract. He raises the issue as to whether in fact they should be covered at all. We would disagree with that, and Peter may want to comment later on the legal aspect of it. But it does open up a very interesting question because we are talking about 25 per cent of the work force in that particular category.

That was why the RSA was designed, specifically to meet the needs of that particular group in the community. The worrying thing is that there are now 2.4 funds per individual, I think the figure is. As mentioned earlier by the ASFA people—and I totally agree—we need to do everything we can to reduce it ultimately to one fund per individual. Therefore you needed a portability component in the RSA to enable people who are in temporary or casual employment to move around. I think that there is a product for them. I am just not convinced that the market realises that, or is prepared to design a decent product to meet their very specific needs. It is a growing need. That number is going up as a percentage of the total working population and it is likely to continue to do so.

On the question of the trigger for education, the experience in the United States in this area is quite significant. Firstly, there is no doubt that there is a correlation between the quantum of funds in an individual's account and that person's interest in what is happening to it. I have studied this in the United States and I have been absolutely fascinated by the high level of knowledge.

Senator CONROY—Where is that threshold? Is it \$5,000, \$7,000, \$10,000? Is there any—

Mr Connolly—There is no guaranteed figure on this. But let me put it this way. The first threshold is when you can buy a second-hand car. That is the first actual substantial amount of money that a young person actually relates to. So your taste in cars will determine what you think that is. The second threshold is the deposit on your first home. The third threshold is probably a new car, as distinct from a second-hand car, et cetera.

What we have seen in the American case is that as people's quantum of funds increases, side by side with that there is a workplace educational system which is usually a VDU with software provided. There is a little room which they can use. Employees have their own disks which have all their basic data, so that no-one can access their information, and it is entirely private. The system then comes up with a whole series of questions and answers depending on their priorities. I have suggested to the tax office that instead of just running an educational program on superannuation per se, which is what I think they would like to do, they should be running a program on the advantages of savings and investment, of which superannuation is a very important part. Until people get a more holistic approach to the reasons that they save in toto, then understand the importance of superannuation within that context, I think that you are really pushing uphill a bit.

What is worse, you will tend to skew the system. We are not just saving for our retirement. People have to save throughout life for a whole series of reasons. Therefore, you need to see that as part of a defined process. When you say to me, what is the trigger for education, the trigger has to be the presumption—and the evidence from this is fairly clear—

that the level of financial knowledge in this community is very unsatisfactory. We all learnt to save when we used to get Commonwealth Bank tin boxes at school. At least we understood what it meant to put a few coins into the old tin. But we have not gone much beyond that.

The share ownership arrangements of recent years have obviously had a major impact on the financial knowledge of the community as a whole. But in the paper which I am happy to give you, which I gave to the tax office on this issue, most of the evidence is tax office evidence, and it demonstrates more than clearly that the community at large does not have confidence in superannuation.

I think the way to solve that problem is to take it as part of this holistic approach rather than just going for superannuation in its own right. The tax office's own view is that the three problems are the employees' lack of knowledge about superannuation, confidence in superannuation and its relevance to them. If you ask, 'What is the trigger?', we have to address those three components as part of the answer.

Senator CONROY—Everybody has argued to us that it would be a disaster if we started without the public education campaign, whether it be the holistic one you are describing or a more direct one on super and its impact on necessity. The problem I have is that if you just say in the legislation it is starting on a certain day, whether or not there has been any education campaign or a reasonable one or one that has been on television, if people have not understood the impact—and you have been in politics a lot longer than I have but normally you have got to hammer a message for a long time to get it through—we may be leaping into a system that people will not be ready for even in six months time. There should be some sort of trigger test, some sort of position where we are all working towards getting everybody up to speed, and then we say, 'Right, people are ready for it; now we do it.' I am not sure how we can incorporate that in a piece of legislation.

Mr Connolly—When you are talking about well over a million employers and over eight million employees I do not think there is a definable answer in that sense. But one thing is clear: you have to turn employers into activists and supporters, and at the moment a lot of them are not. There are a number of reasons for that, but that is the simple fact of the matter. A lot of them take the view the government requires us now to put in six, seven per cent going up to nine—fair enough, that is what we are told to do, we will do it, but don't ask for anything else. That is where there is a difference with the 401K environment in the United States, because the provider goes into a company only if the employer wants them, so there is automatically a level of support. The educational program does have to be two-pronged. It must cover employers as well. Again, the United States experience shows that where you do have employees who are more conscious of the realities of saving, you have a better work force, a more committed work force.

Senator CONROY—In a voluntary system where you have got to opt in, clearly you are always going to have a greater level of financial awareness. The problem is, with our compulsion system, both employers and employees may take the same attitude—I have got to do it now; it is the last I want to think about it.

Mr Connolly—Mind you, that is where choice is part of the answer. People will start thinking about that—and as I said, it does come down to how much money you have got in your account. I am more concerned about \$10,000 than I am about \$1,000. Most people would react the same way.

Senator CONROY—I was an industry fund officer for four years, and the first few years just getting them to think about \$600 in their account was like a nightmare, but now they are starting to build up to three, four, \$5,000—the second-hand car level. They are a bit more interested in how their funds are going.

Mr Connolly—That will grow very steadily. With that five million people coming into the choice system by the year 2000, I think the exponential growth in expectation of information will be very substantial. What I am concerned about is whether employers as a whole and whether the industry at this stage are aware of that level, that tidal wave that is going to hit them of people who really are going to want to know some answers and whether we are able to provide them.

Senator CONROY—I am just worried that the committee could be responsible if we recommend a six-month start-up date deferment as you are suggesting, if the informed choice were not ready on 31 December.

Mr Connolly—You will educate a lot more people in six months than you will in three. In fact, you are talking about nine months, really.

CHAIR—Mr Connolly, can I ask you a question in relation to a matter that you did raise in your presentation. It is a very important point, and I think I would like it to be clarified a little. As I understand it, it relates to the key feature statement and the differences between certified agreements and Abas. As I understand it, key feature statements should be available before the collective decision is made in the case of a certified agreement. If I am correct, you said that otherwise employees will not be able to make an informed decision.

In relation to AWAs, you make the comparison of saying, ‘There is no reason why a key feature statement should not be given in advance of the signing.’ Could you just tease out a bit more for the committee why there is that difference, because I think it is very significant.

Mr Connolly—I do not know whether your committee has had the advantage of being able to actually read the draft discussion paper from the Insurance and Superannuation Commission—maybe you have not because this letter was a specific response to that. What the paper said—rather strangely in our opinion—was that everybody has to have access to a KFS where they are applying the four choices—for example, in any multiple choice. But where you are entering into a certified agreement, you do not need to have a KFS.

I just cannot understand the logic of that. The argument seems to be that the certified agreement is there to maintain the status quo. Maybe so, but if choice is to be in any sense meaningful under those circumstances, at least employees should have access to the KFS of the scheme which they are meant to be continuing with. That is not provided for in the discussion paper. There seems to be a sort of ‘let the market decide’ approach. The market is based on informed choice, I thought.

CHAIR—And AWAs?

Mr Connolly—AWAs are quite fundamentally different from that, because the AWA is a very personal decision between the employer and the employee. But again the principle should apply. If the employer is saying in the context of their AWA that, ‘This is the fund that I wish you to go into,’ surely again the employee should have the right to see a KFS.

CHAIR—As I understood your first comment, you said, in relation to an AWA, that there is no reason why a KFS should not be given in advance for signing.

Mr Connolly—That is what I am saying. It should be in advance. But the discussion paper says that it does not have to be in advance. You can put a person through the whole process—joining CAs or AWAs—and, if they ask at some stage in the future, you can show them a KFS.

CHAIR—As a point of clarification, you are opposed to the discussion paper in relation to CAs?

Mr Connolly—On that point, yes, and we have said so in our letter.

CHAIR—Would you like to add to that?

Mr Charteris—No; it is just a disclosure issue, Mr Chairman. Certainly in the case of certified agreements, a collective decision is required and the information that other people are given before they make a decision as to superannuation should be given to the group at least before the group makes the group decision.

Mr Connolly—Otherwise, you really run the risk of this no-disadvantage test that I referred to earlier.

CHAIR—What would be the consequences of that?

Mr Connolly—You could unscramble the whole egg. You effectively only need one employee to claim that they have been disadvantaged and the whole thing could be—

Senator HOGG—Where does this leave the whole issue, given that superannuation will possibly no longer be an allowable matter under the act? There are going to be disputes, if you are talking about certified agreements. Where do you resolve those disputes?

Mr Charteris—I am not an industrial relations lawyer.

Senator HOGG—No, I understand that.

Mr Charteris—As I understand it, certainly the parties may still agree by certified agreement on a superannuation fund or funds. I believe, in time, certified agreements will specify their own choice. It is just not a matter which you can dispute, so it cannot be arbitrated and all those sorts of things.

Senator HOGG—But there may well be matters arising out of it which need arbitration.

Mr Charteris—Then you have a problem. Where the parties agree—

Senator HOGG—The commission would no longer have the jurisdiction.

Mr Charteris—Then you would have a problem incorporating it. But where the parties are agreeable to incorporating a fund, it will be a valid term of the certified agreement. It is just where the parties cannot agree that the issue changes.

Mr Connolly—You can use the legal system, if you have a disagreement on a contract, because that is what it really is.

Senator CONROY—Could I just add a question that we discussed with the Institute of Actuaries this morning, a question of compounding and people's understanding, or lack of understanding, of the importance of compounding. I raised with them the question of whether they had done any figures on the difference in an individual's account, whether it was paid into monthly or annually. They suggested, firstly, that they could get some information, but they could easily show that there was a fairly big difference—not big, but a significant difference—between a balance at the end of a long period if it was paid into monthly or annually—

Mr Connolly—If you were paying off your mortgage.

Senator CONROY—I was actually about to make that analogy, that people have quickly learnt the importance of paying off their mortgage fortnightly or weekly, if they can get a bank to agree to it, rather than waiting monthly.

I was just interested in your comments in terms of the removal of super from the awards. Many super funds, industry funds, have your weekly payments. As I indicated earlier, it is something on which I spent four years of my life, chasing employees to make their monthly payments. Currently, the SGC allows you to pay just once a year. Do you see that there is a real problem emerging in terms of people's end package, if many employees take the option to move away from monthly payments to annual payments?

Mr Connolly—It could have an effect on an annual basis, yes. But you see—and Mr Charteris may want to comment on this—I think it is the SG legislation that you have got to look to and make amendments. There really is no logical argument for having two sets of legislation covering the same basic subject area, but there is certainly a case for making sure, in regard to the SG legislation—now that it does not have the underpinning of the industrial relations arrangements—that you consider some amendments to that which would cover those sorts of problems.

Mr Charteris—Good.

CHAIR—We are well over time. Thank you for the issues that you have raised; it has been a very worthwhile contribution to the committee.

Mr Charteris—If we are to make a further submission, what is the date for that submission, Mr Chairman?

CHAIR—As early as possible, Mr Charteris, because we are under very tight time limits.

[12.18 p.m.]

BIRKENSLEIGH, Mrs Sandra Christine, Partner, Superannuation Services, Coopers and Lybrand, 580 George Street, Sydney, New South Wales 2000

MATTHEWS, Mrs Louise Joyce, National Superannuation Technical Consultant, Coopers and Lybrand, 580 George Street, Sydney, New South Wales 2000

CHAIR—I would like to welcome Mrs Sandra Birkensteigh and Mrs Louise Matthews. You are both well known to the committee. I invite you to make an opening comment.

Mrs Birkensteigh—Thank you for the invitation to give evidence today before the senate select committee on the issue of choice of superannuation fund legislation. As you all know, I am of partner in Coopers and Lybrand, specialising in superannuation. I appear before the committee in my capacity as a professional service provider to employees, employers and trustees on matters relating to superannuation.

The format of our evidence today will take two parts. I simply wish to talk about the concept of choice in the context of this legislation and also to present our initial case for a deferment of the commencement of this legislation. Mrs Matthews will raise some technical issues that we believe need to be further addressed in order for the legislation to be effective.

I will start out by saying that Coopers and Lybrand, in general, support the concept of choice of fund. It is essential, in our view, that individuals take responsibility for their future, and taking responsibility for savings for retirement is just part of those things that individuals must be responsible for. I believe that this is consistent with the majority of the industry.

Notwithstanding that, we strenuously urge senators to support a postponement or a deferment of the introduction of this legislation in order to allow for the numerous issues raised in our submission, and in other submissions, to be properly addressed, either by legislative changes, the issuing of regulations or the issuance of guidance notes by the ISC or peak industry bodies.

The postponement would also allow for employers—and I stress ‘employers’—to be properly educated as to their role in choice of fund and allow them time to consider the options available and to implement this significant change in an orderly and cost-efficient fashion.

We further support the deferment of this legislation to allow for the introduction of choice for all employees from one date, thus alleviating many of the HR issues that companies believe they are going to face as the legislation in its current form promulgates things like salary differentials, different levels of employee benefits within the same class of employee and also the need to maintain different payroll methodologies for similar classes of employees.

This need will arise where current employees are in funds where the employer cannot deal with the issues that those funds present by the proposed commencement date, particularly defined benefit funds. Louise will talk about that further.

On the trustee side, of course, there is the issue of allowing time for key feature statements to be prepared and to ensure that any improvements that a fund may need to make in order to be competitive under the choice of fund regime can be completed by the commencement date.

It is widely known that there are a number of vested interests in respect of this particular legislation. The majority of the vested interests that support a commencement date of 1 July 1998 are those that see this as being an excellent opportunity for them to improve their market position in terms of the financial products that they offer or to obtain additional funds under management.

Clearly spinning from this is the ability of the sellers of those products to enhance their remuneration off the back of increased sales volumes and so on and so forth.

Only this morning I was in a meeting with a representative of a new financial planning organisation who told me of a discussion that he had had yesterday at a conference with someone in a similar vein of work, who, and I quote, ‘was rubbing his hands in glee at the envisaged financial gains he would obtain from this new initiative.’ I suggest that he is not alone. Visions of the UK experience float in front of my eyes.

In our view, the most important and really the only vested interest whose position the Senate select committee should be working to enhance is that of the members of superannuation funds. By default, government policy should then be achieved.

To that end we believe it is appropriate that the commencement date should be deferred in order to allow for proper education of employers and employees; to allow orderly and efficient introduction of the range of choices that employers may offer; and to ensure that the employer is not under pressure such that his response to this legislation is simply to take the easiest path. And easiest does not necessarily represent best.

As I was leaving the office this morning, someone gave me an extract from a report—I do not have the full report—but it is entitled *HR Report Issue No. 170*. It has an article on employers’ response to the super choice dilemma. Employers have started using enterprise agreement negotiations to overcome difficulties presented by the federal government’s employee choice of superannuation legislation. As part of negotiated agreements, companies are limiting the choice to designated funds. It cites two examples. BBC Hardware has just finalised an enterprise agreement for its 4,500 employees which restricts choice to the industry or company fund. Coopers Brewery in South Australia has cut the choice even further. Its enterprise agreement for 63 Adelaide-based production employees has directed all employees super contributions into the company fund.

I guess at the outset you cannot judge whether that is the best or the worst choice but what it is not is full choice. I think you will find that more and more employees are taking the enterprise agreement route as being a solution to not having to deal with the rest of the problems that the legislation presents for them.

The Senate select committee members, in our view, should be very cognisant of the ability of the Australian work force to embrace the concept of choice and to act in their own best interest in terms of those choices.

Take, for example, the recent surcharge debacle. In order to avoid the incurrence of the surcharge tax in circumstances where tax may not be valid, the tax office and fund trustees undertook an extensive education campaign to encourage members to provide their tax file numbers.

Recent statistics released by the Australian Taxation Office indicate that, notwithstanding this education campaign and notwithstanding that the provision of the tax file would have, and should have, led to a benefit for many members, only 44 per cent of members provided their tax file numbers. This take-up rate is apparently so appalling to the tax office that they have now undertaken not to issue tax assessments until such time as an additional round of education takes place.

I believe we should all ponder the implications of this for fund choice. Fund choice as it currently stands offers members no incentives. The incentives under fund choice legislation are for the employer. If the employer offers fund choice in the prescribed manner they will avoid an additional superannuation guarantee cost. The member, on the other hand, gains nothing. There is no difference for the member. There are arguments that they will have more competitive products and lower costs, but this will only be relevant if they make an active choice. If members did not respond to ensuring that they pay the least possible tax, what will cause them to respond to fund choice in a meaningful way? It is for this reason that we believe the default fund will be critical in the choice arrangements and it is the default fund provisions which cause a number of concerns in the legislation—and Louise will talk further about that.

Consider also the eligible rollover fund situation. Between 1995 and 1997, eligible rollover funds experienced the fastest growth rate of any segment in the superannuation system. Assets under management increased by 136 per cent annually from \$134 million to \$749 million. The number of members in ERFs increased by 190 per cent annually from 142,000 to 1.2 million. In the space of just two years, the assets managed by eligible rollover funds increased nearly sixfold and the number of member accounts increased eightfold. That is in contrast to the annual growth rates for the superannuation industry as a whole over the same period of 18 per cent for assets under management and five per cent for the number of accounts in the system.

Eligible rollover funds are used by superannuation funds to deal with the benefits payable to members who do not indicate to the trustee where they want to roll their money over to upon becoming eligible for a benefit. This is just another indication of how little interest members actually demonstrate in relation to their superannuation funds. They have an active choice at the time of termination to make a decision about what happens to their superannuation money and where to invest it and they fail to take it. This situation should cause the Senate select committee members significant concern.

What this indicates is that all the education that has been undertaken to date in terms of superannuation and its importance to members has not had anywhere near the effect that one

would hope. If this situation is then translated into the choice of fund environment, what will happen is that the default fund again will become the predominant fund. If this is the case, one would wonder why we would even bother putting employers through the agony and cost of having to introduce the other choices. For the corporate environment, if the corporate fund is the default fund, then nothing has changed. Similarly, if the default fund for any employer is simply the fund they are currently using, nothing has changed.

Another one of the benefits that was to come from choice of fund is that it allows members to accumulate the various accounts across a number of investments into one—this was a question posed to David Connolly in the earlier presentation. This facility has been available for some time now. In fact, it is the whole purpose of the introduction of the transfer protocol. But I pose you this question: since investment managers and fund managers get their income from funds under management, why would they be encouraging members to move their money out of their fund into another fund in order to consolidate accounts? If everybody takes this approach, then members will always be discouraged from doing the very thing that this legislation purports to be trying to achieve—except there is nothing in the legislation that actually forces it to be achieved. So, whilst everybody currently has 2.4 accounts, I suggest that in a couple of years they will have five, six and so on and so forth.

As indicated by the statistics, I do not believe the choice of fund will provide any greater rate of consolidation than the transfer protocol provisions have allowed. This is evidenced by the comments by ERFs that they have not really been faced with the prospect of losing any business, given the transfer protocol environment.

The other concern in choice of fund is the take-up rate generally, where members have been offered a member investment choice. The following facts are extracted from various ASFA magazines. In 1995, Hesta, which is an industry fund, had only 54 of its 125,000 members taking advantage of member investment choice. First State Super has reported that 90 per cent of its participants do not exercise choice. The BOC Gases superannuation fund offered choice to its award staff when the superannuation guarantee was introduced, but only 12 out of 2,000 members made any election under the choice regime.

In this month's ASFA magazine, Coca-Cola Amatil is noted as having been awarded a prize for the best member communication program in terms of the introduction of member choice. Sixty-four per cent of its members made an active choice; 94 per cent of its members indicated that they appreciated being provided with choice. This means that, despite a first-class education program, 30 per cent of the work force made no choice.

The Telstra fund offered investment choice in February 1997 to approximately 72,000 members of its accumulation fund. Less than two per cent showed any serious interest in departing from the default fund provided by the trustee. Conversely, the Optus fund offered investment choice approximately two years ago to its members and, following an intensive education campaign, 75 per cent to 80 per cent of fund members exercised their right to investment choice.

The statistics indicate the need for an intensive and properly structured education program. Louise Matthews will touch on this later and will also make a number of comments regarding the UK experience, where member choice was introduced in the UK.

We recognise that the government will be pushing for the introduction of this legislation from 1 July 1998. We also recognise that the government's position may well be that the industry has known about this legislation for some time and that therefore implementation should not be a problem. I challenge you, though, to recognise that the industry has suffered enough from inappropriate, incomplete legislation forced down the throats of the participants simply in order to fulfil an election promise.

The choice of fund legislation has no revenue impacts. The government stands to lose nothing by deferring the commencement of this legislation. It stands to gain a lot in the eyes of the industry by exercising a duty of care to the members of superannuation funds. Our recommendation in terms of deferment does not necessarily mean that the choice of fund cannot be introduced before 1 July 1999, which is actually the date we are proposing. If the legislation were able to be passed in a complete form, and a form that addresses all the issues raised by the various submissions, by July 1998, then fine. But make that the earliest date.

Allow people time to deal with their own issues, and employers to deal with their own issues. Bring the last date for commencement to 1 July 1999 for all employees. We are not saying, 'Do not have anything': if we can have a proper legislative framework, then fine. But do not force everybody to do what they cannot necessarily do, and do allow for a proper education program.

In considering the deferment date, the Senate Select Committee members might also consider that this legislation is integrally linked to the superannuation guarantee legislation. Under the superannuation guarantee legislation, employers have a little over a year in which to make the contributions for the preceding year. This means that the SGC contributions for the 1998-99 year do not actually have to be made until 28 July 1999, in order to comply with the superannuation guarantee legislation.

Whilst I do not actually advocate that employers should hold back contributions for a year, I am simply trying to set out that you have one set of legislation that is saying that you have to offer something for all new employees by 1 July 1998 that is linked to another set of legislation that does not have any obligations for you to make contributions until a year later. I do not think that that makes a lot of sense. There is no real harm in leaving it go a year.

Mrs Matthews—I am here today in the capacity as a professional technical adviser to practitioners within the industry, trustees of super funds and employer sponsors. We strongly recommend that this committee, in its report, recommends a common implementation date.

The proposed legislation, as you know, differentiates between new and existing employees and, as a result of that, many employers have formed a consensus of opinion that to not implement choice for employees at the same date would be like sabotaging their own employee relations. The reason is that potential problems will arise if existing employees

perceive that new employees are entering the work force with the employer and are being granted additional rights of employment.

From a cost and compliance viewpoint alone, employers would be well advised to implement one system rather than having to run two different systems which need to distinguish between employees who joined after a certain date. For that reason, we recommend a common implementation date. As Sandra mentioned, we also recommend in our submission a postponement of the implementation date. There are several reasons behind this and not only from a point of view of organisation.

The legislation, as you know, was introduced just prior to Christmas. It is worthwhile noting that, although the announcement was made quite some time ago, the legislation did depart significantly from the original budget announcement. Some of the things have changed significantly. With the way that limited choice was to be introduced, they have cut the choices from five funds to four funds. There are the exclusions for certain employees such as public servants who are members of the CSS and PSS. They have altered the definition of industry fund, or what we believed was going to be an industry fund, to industry based fund, which opens up a whole new group of funds that can actually be added to these menus. As well as that, the legislation now forewarns changes to the disclosure requirements under the SIS legislation for key feature statements.

We have seen an ISC discussion paper on disclosure of information but, again, there has been no definitive comment from the ISC or guidelines produced to alter the current key feature statement requirements. It is the first time that industry and employer sponsors have received detailed information regarding what is meant by a workplace agreement, and it is also the first time that the operation of key components to this legislation, such as the default and chosen fund definitions, have become known to the industry. We have been working since Christmas trying to deal with all of those issues that have arisen out of seeing legislation as opposed to the original budget announcement.

Employers will need to make decisions and, without deferral of the commencement date, employers will unfortunately be greatly influenced by the need to comply within a certain time frame as opposed to making decisions which are appropriate for its employee base. Therefore, we believe that allowing such a short time frame will result in some employers executing their actions without due regard to the consequences of those decisions.

Some of the decisions that employers are going to need to make between now and the implementation date are such things as whether to establish or review the existing workplace agreements for new and existing employees, as I have just mentioned, whether to review a total remuneration structure for each employer, whether to provide limited or unlimited choice, whether they are going to provide on behalf of voluntary employer contributions as well as SG contributions, and whether they are going to continue making voluntary contributions to a fund of the employees choice at all.

They also have to implement education and communication programs for their employees. They may have to consider winding up an existing in-house fund or to restructure the in-house fund benefits structure so that it is more able to compete in an open marketplace. If that in-house fund is to continue, they need to decide on the most efficient way to produce a

key feature statement, something that in-house funds have never had to do before. If limited choice is provided, employers will also need to provide their employees with a selection of four funds, and determining those four funds would in itself be a major exercise.

Coming to the question of employee education, employees are going to need time to absorb all of this information. They are going to need education regarding the types of investment out there, the investment cycles, the risk return profiles of particular asset classes and the various types of products available. They are also going to need to understand the overall objective of superannuation—to understand that it is a long-term investment—and to move away from an ideal that superannuation should be monitored on a quarterly basis or even on an annual basis. It is something that should be locked away for 20 or 30 years. They need to understand the differences between the different types of savings that they may have been exposed to.

In the example that Sandra has raised regarding the ATO's experience in collecting TFNs, it is fairly obvious that, even with the incentive to provide a TFN to avoid paying the surcharge, members have not reacted the way the tax office expected them to. It is of major concern to us that without appropriate education, without increasing members' and employees' awareness regarding choice of fund, they will again not make an active choice, and the intent of the legislation will not be met, if we are to implement it by 1 July 1998.

A survey conducted by GIO—I am quoting these figures from the *Australian Financial Review* of 22 December—found that 78 per cent of employees and 42 per cent of employers were unaware of the choice of fund regime to be implemented by 1 July 1998. That is a staggering number of people who are still unaware that this legislation is going to be implemented from that date.

To compound this problem, the ABS reports that about 25 per cent of the work force changed jobs in 1996. This high mobility will lead to lost members and unclaimed moneys. As Sandra mentioned, the outstanding and staggering growth in ERFs is only going to continue without proper education. It will also erode a person's superannuation savings with the proliferation of multiple accounts, and fees and charges. Therefore, we recommend that an appropriate level of education is ensured before choice of fund is implemented and that employees are given sufficient time to make an active and informed choice.

To quote the UK experience, of approximately 560,000 people in the United Kingdom who transferred over their occupational pension schemes as many as 90 per cent were given inappropriate advice and joined more expensive personal schemes. The compensation payments in the UK alone have reached £4 billion, which is approximately equivalent to \$8 billion. We do not want to see that happen in Australia. Those figures illustrate the need for extensive employee education to be undertaken before choice of fund is offered, in order to avoid the same problems that occurred there. That cannot be realistically achieved before the proposed implementation date of 1 July 1998. There also need to be appropriate and effective safeguards put in place here to ensure that the same compensation problems that the UK has experienced do not recur here.

The cost to employees and employers of rectifying poor decisions made as a result of the need to comply within a three-month time frame and without proper consideration of the

outcomes at this time is inestimable, but could be avoided if a sensible commencement date could be agreed upon by both houses of parliament. We therefore recommend that 1 July 1999 be the date from which all employees are offered choice.

On the issue of insurance cover, we believe that it is also necessary to concentrate on disclosure requirements for insurance cover—and not only the level and the nature of the insurance cover being provided, but also all of the contractual obligations that are bound into that insurance cover, such as whether any medical evidence requirements are going to be required if a person changes funds; whether cover is going to be automatically provided and the level of automatic cover; the premiums of the cover, if met by the employee; and if an ability exists to transfer existing cover to a new fund, or to the individual, and the terms of effecting such a transfer. This is pretty important for people who are of an older age group, perhaps not in fantastic health or perhaps in high-risk occupations. If they are not aware of changes to automatic acceptance levels, for instance, they could possibly lose the amount of insurance cover or pay a greater loading on their insurance premiums than they would ordinarily if they had stayed with their original fund.

Taxation Laws Amendment Bill (No. 7) does not dwell on the disclosure requirements in great detail, but it does make reference to forthcoming regulations imposing further disclosure requirements on default funds. I think it is going to be left to SIS to basically handle the disclosure requirements in relation to all other funds. As a result of this, we recommend that any regulations drafted incorporate the requirement to disclose insurance information, as I have just discussed. Also, we recommend that the ISC does mirror those requirements within its own key features statement guidelines.

Coming to the question of default funds, the legislation currently does not allow an employer to move an employee's superannuation account from an existing default fund to a new default fund. That is a real problem. We strongly believe that an employer must not only have the right to direct future contributions to a new default fund, but also to transfer existing account balances to that new fund. I am not suggesting that they have carte blanche to go about transferring account balances from chosen funds. But, for instance, if a member has not exercised choice and a default fund is in place, and 12 months down the track the employer sponsor is not happy with the performance of that default fund, currently the legislation only provides for that employer to change the default fund in respect of future contributions and there is not an ability of the employer sponsor to move the account balance from the old default fund to the new default fund.

As a result, you are going to see a proliferation of member accounts. You are going to see that employers, even though we have this section in the legislation that provides some indemnity to employer sponsors if they follow the legislation, will want assurance that they have the ability, if they are using a default fund, to be able to move the entire account balance to the new default fund as well and protect members and their employees against poor performing funds.

I guess it is also going to reduce overall administration costs, and how it affects employees, by allowing the employer sponsor the right to consolidate past and present accounts. Again, it will enable the employer to choose a fund based on fund performance and other market forces and not to be tied to an existing default fund due to the prohibitive

fact that a duplication of administration charges would occur if a new fund was chosen over the old.

We also recommend that true portability is introduced. The SIS legislation, as it stands, does not override trust deeds in respect of when a member can transfer an account balance out of a corporate fund. At the moment the governing rules of that fund will determine when a benefit becomes payable and able to be transferred. Without this overriding provision within SIS, choice of fund will become meaningless for employees who do not have the ability to transfer their existing account balance out of the corporate fund without, in general, termination of employment.

We would recommend that SIS is amended to provide overriding provisions that will override governing rules and allow members, only at the point when choice is exercised, to be able not only to direct future contributions to a fund that they have chosen but also to move their existing account balance. Similarly, death and disability cover should also be able to be transferred. We would like to see some legislative provision that will ensure that perhaps a compulsory level of death and disability insurance is provided to all employees, as originally announced in the budget announcements.

In relation to defined benefit funds, there are several issues we need to raise. We see that a mass exodus of members from a defined benefit fund can have very serious consequences to funding calculations and the solvency of that fund, and hence have a very adverse effect on the remaining members within that fund. Levels of liquidity are usually only sufficient to pay benefits as people terminate employment. Liquid assets held by such funds will certainly not be sufficient if a greater number of people choose to exit the fund than has been allowed for in estimating the usual number of member terminations that might occur in that year.

What I am saying is that we do not want to see defined benefit funds moving an excessive amount of money into cash asset classes or money markets. We must recognise that superannuation is a long-term investment. Especially for defined benefit funds, it should be the right of the trustee to invest in long-term investments in order to meet the benefits that have been promised under that fund.

As a result, we would recommend that a period of at least 12 months is the notification time needed for a member to advise the trustee and employer sponsor that they are going to depart from that fund, to allow them to reorganise the fund's investments and cash flow problems appropriately.

Another problem faced by employer sponsors and trustees of defined benefit funds is the ability for an employee to move in and out of a fund at will, and currently this is allowed for in the legislation. This practice can create further funding difficulties because the employer sponsor will never know where it stands in regard to its membership base. It can leave a fund open to employees playing arbitrage against the fund. In a defined benefit fund, it is the employer sponsor who is taking the investment risk.

So you can imagine that an employee is quite able, during perhaps periods where there is a risk of a negative or low return, to move into the defined benefit fund and hence benefit from benefits that are promised under that fund, and then, during fantastic investment

periods, move out of the fund and enjoy actual earnings in an accumulation style fund. For that reason, we would like to see that, if a member chooses to depart from a defined benefit fund, or to exit that fund, the employer is then given the ability to reject that employee's application to rejoin that fund at some later time. In other words, the employer has the right to say whether or not they will allow them back into the fund at some later time as a result of leaving the fund.

In relation to unlimited choice and where the employee proposes a fund, we would also like to see addressed the issue of any obligations placed on the employer sponsor as a consequence of contributing to that fund. Currently within most trust deeds there is a clause that states that, where an employer sponsor contributes to a fund, they are also bound by the terms of the trust merely by the act of contributing to that fund.

Again there is a possibility, especially when we are dealing with excluded funds, that the employer, by the act of contributing, is in fact signing its life away to other obligations under the terms of that trust. So we would agree with the IFSA's submission to limit the obligation placed on potential employer sponsors so that the only obligation that is placed on them is the SG contribution rate. This could be achieved by simply having trustees of such funds issue the employer sponsor with a key features statement, if you like, or with some sort of declaration that limits the employer sponsor's obligation to only SG contributions regardless of the terms of the trust. We would see that as being a standard, prescribed document that could be issued via regulations.

We would also recommend for the benefit of employer sponsors that—and I know that this issue was raised in the last presentation—in relation to determining whether or not a fund is complying, the appropriate regulators, whether it be the ATO in relation to excluded funds, the ISC or another regulator, be equally responsible for compiling and maintaining a single database that is able to be accessed online or by telephone inquiry by employer sponsors to ensure the most up-to-date compliance status of that fund.

With the current position of the SCT being up in the air and the issue surrounding its jurisdiction and exercise of certain powers being unresolved, we recommend that choice is not implemented until an appropriate and cost effective mechanism is in place to protect both the trustees and employees in circumstances of the need for dispute resolution.

In conclusion, I hope that you appreciate the impact that a hasty implementation of choice of fund will bring about for employers and employees alike. I think, in order to successfully implement choice of fund for employees and to fully meet the intention of the government, some time needs to be given to employers and employees so that they are able to make informed decisions and so that choices are able to be made. This will eradicate the danger and potential costs as a consequence of employees exercising ill-conceived choices and employers making decisions out of haste simply to comply with the requirements of the legislation.

CHAIR—Briefly, I understand your submission to state that you would like the legislation, suitably amended, to be passed reasonably expeditiously and that the commencement date for all employees, new and existing, be deferred until 1 July 1998.

Mrs Matthews—That is correct.

Mrs Birkenleigh—It is 1999. That is absolutely correct Senator Watson, thank you.

Senator HOGG—Where do I start? The issue of education concerns me greatly. I have expressed this now over the last couple of days of hearing. I was interested in the statistics that you rattled off in respect of Hesta, BOC Gas, Coca-Cola and so on. But particularly looking at the Coca-Cola experience, do you have any further knowledge about that?

Mrs Birkenleigh—No, I must admit to having read that article only this morning. I can certainly get some further information.

Senator HOGG—It is just that of those that you mentioned, the Coca-Cola and the Optus experience stand out very much.

Mrs Birkenleigh—That is right.

Senator HOGG—It seems there were strong or intensive campaigns and the best result that could be achieved even after those campaigns for one was 64 per cent who became active in choosing their fund or their investment and in the other 75 to 80 per cent.

Mrs Birkenleigh—That is right.

Senator HOGG—My concern goes to the fact that we have had evidence that somewhere in the vicinity of 48 per cent of people in Australia have literacy or numeracy problems. They are at the lower end of the literacy and numeracy scale and that is a scale of one to five. Some 48 per cent are in categories one or two, with 2.5 million people being in category one. It would seem to me that the evidence that we have received says that people must make an informed choice. Listening to some of the evidence that you people have given—and I am not being critical of it—it would seem that for people to make themselves sufficiently knowledgeable so that they can make an informed decision, when they have very little literacy and numeracy skills, is going to be very difficult indeed. So the education campaign is doubly important and I am just wondering whether the time lines that you have outlined to us in terms of the implementation of the legislation are really just being a little bit ambitious?

Mrs Birkenleigh—I guess, at the end of the day, this legislation is not going to solve the problems that the country experiences in terms of the education quality of a number of our adult members of the community. I think it is incredibly sad that we have those statistics. It may be that—

Senator HOGG—Excuse me, the problem with this is that we are dealing with something for the first time that is compulsory; this is not voluntary.

Mrs Birkenleigh—That is exactly right. It is compulsory choice, which is quite interesting, I guess. At the end of the day, you are not going to be able to get a perfect outcome. No education program, not even our own basic school education program, gets a perfect outcome. But what we have got to try to do is get a level of education that is

targeted to people, based on their needs. If you sat those people down in front of an education program that is tailored for the merchant bankers at BT, they are not going to achieve anything, but if you target a program that is simple and designed for their special needs, then you should be able to get—if you speak to the sorts of people who specialise in this area—some positive outcomes.

The Coca-Cola Amatil program used a lot of pictures and graphics and whatever. They used, when looking at the three investment strategies, a turtle, a horse and a tiger for capital stable, balanced and growth. That is what they used in their written communication. In their video communication they used a ferry, a sailboat and a sleek 18-footer out on the harbour. So they used a lot of conceptual things that people will relate to in terms of how fast things go and whether it is safe to be on a tiger, for argument's sake.

Senator HOGG—Not if you are on a farm in western Queensland.

Mrs Birkenleigh—Perhaps other things could be used that would have a similar effect. But that is up to the educationalists. What we are saying is that you cannot just run one program. The tax file number program did not work. Clearly the superannuation guarantee program has not worked because people are leaving all their money in an ERF. If they actually understood that their tree was growing, then they might feel that they had more control or interest in that tree as it blossomed and got more dollar notes on it.

Senator HOGG—You are putting an argument to me for an even longer deferral. It seems to me that, until we know and can test the effectiveness of the education program, it is not much use people getting warm and fuzzy putting an education program together, and rushing out and saying it is going to be the answer. Our experiences to date, as your evidence attests, have not been all that great. The best minds could say, 'This is the education program that will get the tax file numbers out of people and do this, that or whatever.' Here we are faced with people making a very deliberate choice for one of the most important decisions that they will make in their lives.

It would seem to me that, if there is an education program, we first must know that the education program has been tested, is going to work and has been properly put together. Knowing that it is going to work, one then has some reasonable idea of the outcome of choice, given that some may well slip under the hurdle and not make it over. At least one will have an idea of the impact. I am not a professional educationalist. I would imagine that, just putting that together and marketing it out there in the market place—given the complexities with employers and employees—the deadline you have suggested is very ambitious indeed.

Mrs Birkenleigh—It may well be, but we are not the only country in the world to ever introduce fund choice. There is a lot of experience. I assume, Senator, that what you are referring to as an education program is a government funded education program as opposed to relying on the private sector to put various bits and pieces together.

Senator CONROY—No. I have made the point that, this is the only country where we have compulsory choice, which makes it very different.

Mrs Birkenleigh—It does. I do not think you are wrong, but you have to start somewhere.

Senator HOGG—I am not against starting. I have not said that. I am just trying to get some realistic expectation of what the time line should be. I am not saying do not go down the path. I am just trying to get your professional experience, given the evidence that you have given us here today.

Mrs Birkenleigh—I would have thought that, if you are talking about an educational program that the government can put together, they should be able to go over to the US and get the best possible communicators over there. We have a group that does that in the US. They are used to putting together very complex education programs for companies much larger than those we have here in Australia that cover a range of employee needs in terms of education experience, et cetera. I do not imagine that that could take much longer than six months, in all honesty. They should have statistics on how successful they have been and you should be able to rely on those experiences to have some feeling that, if you bring it back here and roll it out, we get a fairly reasonable response in six months or nine months.

I do not think it warrants a delay out to the year 2000 or 2001. I think we can go and get the experience that we need from places where it has been successfully implemented and work with that. But if we try to do it from the ground up, we will never achieve it. But I take Senator Conroy's point that, at the end of the day, it is compulsion. How do you get people to do something in their own best interests? That is the challenge of the education program.

Mrs Matthews—As well, I think that it should be noted that the 401K plans successes and the US experience, and the reason that it has been so successful and the uptake of choice has been successful, is due to the fact that employees of those employers in the US that are offering choice actually have a perceived advantage in making a choice. They are actually deferring income tax by going into that plan. So there is a tax benefit by making a choice and deferring and making their own voluntary savings. For employees in this country there is not any advantage outside of, perhaps, lower investment tax and huge savings rebate for people making—

Senator CONROY—You have incentivated us all—come on!

Mrs Birkenleigh—Is that like a private health care rebate?

Mrs Matthews—voluntary employee contributions. We are only dealing with something that is perceived to be salary in lieu and it is a compulsory thing, as Senator Conroy has mentioned. So there is not a great incentive for employees to actually make an active choice because they are not actually gaining anything over and above what they have already got, apart from the fact that they may have the choice now to put it into this fund because it has a prettier KFS than the other fund. That is the problem with this whole piece of legislation. It is not tied sufficiently to tax legislation and tax incentives.

Mrs Birkenleigh—I think the other thing that you have to think about is that SGC is compulsory. It is there because the governments of the day are attempting to defray their

long-term pension costs. At the end of the day there will always be a part of society in Australia—as long as we have a Social Security system like the one we have—that is dependent on Social Security.

Similarly, if we are going to have choice of fund driven through the piece of legislation that is there for that purpose, then almost by default you have to accept that there will be a group of people who will be dependent on somebody to make that choice. That means that the education of the employers in putting together the package on limited choice is even more critical than the education package you put together for the employees to pick from the choices put to them. It will be those default funds that will be critical in terms of how that superannuation grows into the future, in my view.

Senator HOGG—This raises the whole issue of small business and the preponderance of small businesses that we have in this nation. They already tell us that they are overworked and underpaid and stressed out. This is going to be but another stress factor for these people, given the emphasis that you have just placed on business people.

Mrs Birkenleigh—I think the real issue for those people will be cost. There will be an inordinate number of service providers that will come up with the answer: we can package this for you; we can do this for you; we can take away the pain and the agony.

Senator CONROY—And we are terrified of them.

Mrs Birkenleigh—It is the cost of either getting that advice, or dealing with advisers. Let us say they go with somebody who offers them everything, someone who says, ‘I can do everything for you for nothing—

Senator CONROY—Just sign on here.

Mrs Birkenleigh—just sign on here.’

Senator HOGG—I reckon that there are some real opportunities in the future for psychoanalysts and lawyers.

Senator CONROY—Every spiv under the sun.

Mrs Birkenleigh—We should all have a new profession. The issue there will be that whilst they might take that easy option, the cost to them then will be when it is wrong option that they have taken and the employees come back and beat them around the head. They will have an industrial relations problem, with unionists in, and all of those sorts of things. At the end of the day I would have to say that I do not think that driving choice through compulsion is the way to achieve anything. But we are not here to discuss whether we are going to throw the legislation out.

Senator HOGG—Some of us could be of that view.

Senator CONROY—There are some attractions.

CHAIR—We are here to discuss the legislation as a committee. You can do that in the parliament.

Senator ALLISON—Mine is a comment as much as anything. As a consumer of superannuation I must say that in the past, before coming onto this committee, I had a great deal of difficulty with the headings: balanced growth, growth, and capital stable. There was never an attempt made by my superannuation fund—and correct me if others do this better than mine—to explain what all that meant. It surprises me that an industry the age this one is has not sat down and done market research with the consumers to ask them how much they can grasp that.

That is not just a question of being able to read; it is a question of what does that mean? It is jargonistic and I do not know how to relate it to my circumstances. It seems to me that we will have those most likely to gain in the market share—and I presume we are talking about banks here. It will remain for that sector to do this market share because it is in their interest to get the business, if you like, and get the jump on everybody else. Can I have your response to that? Why is it that the industry has not sought the views of consumers so that it actually understands what is going on in people's minds when they are faced with these choices?

Mrs Birkenleigh—There is really nothing to force them to. There is no industry like this in Australia. There are no standards. It is not like the Institute of Chartered Accountants where you become a chartered accountant and you have to do certain exams and you get a certificate and you have got to do ongoing CPE. It is not like being a member of the Institute of Actuaries, or a member of the Law Society. We have an industry, for want of a better word, that is made up of a whole range of people all selling services. All we all do is sell services. But what governs what we do? Our own ethical sense of propriety?

Obviously there is the Corporations Law, and booklets produced have to satisfy certain requirements, and financial planners have to have licences, and that sort of thing. But in answer to your question, nobody asks so they do not have to explain it. There is a concept that everybody understands what it means. In fact, balanced, capital stable, and market linked equity growth can mean vastly different things in any number of different funds.

What is more worrying is what happens that when you go along to the big organisations that you would think would know better, or those that should be actively participating in this whole education regime. I had an experience last year when we ran a tender for the outsourcing of a large manufacturer.

CHAIR—Excuse me, we have got about three minutes.

Mrs Birkenleigh—Okay. They had a range of employees, obviously. One of the tenderers came along with a diskette for every employee. On that diskette was modelling for working out how much you should put into superannuation and what investment choice you should make. This assumed that everybody had a computer they could load it into. That was the first thing. Then you had to be able to understand things like risk and return and shares and growth and time horizons, and all of those sorts of things, in order to actually make the model work.

Because the buyers are not the decision makers, it does not really matter. The members are not the decision makers and the members are really not the decision makers under this either. So it will not get any better, I think, or not a lot better.

CHAIR—Do you think that we should have on your key features statement certain warnings as to what people should not do? For example, the key features statements might say, ‘Do not change unless you have checked that you have got a continuing comprehensive life policy.’

Mrs Birkenleigh—Absolutely, yes. I think that is—

CHAIR—What are the sorts of things—maybe you would like to take this on notice.

Mrs Birkenleigh—Yes, could we?

CHAIR—You could give us a supplementary submission as to what those warnings should be as part of your key features statement if people are contemplating change. Before change, consider the following factors.

Mrs Matthews—One thought has just occurred to me and that is a check list of things they need to—

CHAIR—If you could take that on notice, that would be lovely.

Mrs Birkenleigh—I would make only one comment in relation to that. Whilst it will probably take some time, I would still rather think that we can work to a situation where people make positive decisions, rather than constantly being hit with negatives. Yes, there do need to be some health warnings, but I would like to see a situation where that diminishes over time because we have done something positive about educating the population.

CHAIR—The committee stands adjourned for lunch.

Proceedings suspended from 1.15 p.m. to 2.03 p.m.

[2.03 p.m.]

HASSALL, Mrs Krystyna Jadwiga, 65 Ullapool Road, Mount Pleasant, Perth, Western Australia 6153

CHAIR—We will continue taking evidence. We have a change in the procedure this afternoon. Our first witness comes from Western Australia, and it will be via a teleconference. So I would like to take this opportunity of welcoming Mrs Hassall, a director of Westscheme. In what capacity are you appearing?

Mrs Hassall—I am appearing as a private citizen.

CHAIR—Would you mind giving us a little bit of your background and the reason as to why you put in your submission. Then we will allow you to talk to your submission.

Mrs Hassall—Basically I have been employed both overseas and in Australia in the life insurance and superannuation industry. Briefly, my background is that I have spent, I think, 17 years but it is probably 16 in that industry. I might have got the figures wrong a bit. In the superannuation industry, my background has been with various life offices, both overseas and here in Australia. I spent four years with the Insurance and Superannuation Commission. More recently I have joined the board of Westscheme.

Right through that time I have been involved in superannuation or the life industry. Particularly from working with the ISC and having an opportunity to see the wide range of products and providers in the market, from the excluded funds right through to the various public offer funds and corporate funds, I felt that there was a message in trying to highlight that it is very easy to ‘talk’ about things like how difficult disclosure is and how difficult it is to communicate with members, but it is not until one attempts to make comparisons between products that the extent of the problem is revealed.

What I tried to do with my submission was to actually personalise it and put myself in the role of a member—because I am a member of a superannuation fund—and attempted to try and compare funds using the disclosure documentation that is currently available which is meant to comply with certain requirements of the regulator. By looking at those disclosure documents I tried my best to find out whether I as an individual, and not as someone who has worked in the industry for so many years, could make any meaningful comparisons between products.

I like anyone else will find myself in a situation where I will be offered one of various choice options under this legislation. I felt it was important for me to not only personalise it myself, but personalise it for the Senate committee as well, so that they could also put themselves to a certain extent in that position and really demonstrate how difficult that task is.

CHAIR—Thank you very much. Are there any further comments you would like to make in terms of your introduction?

Mrs Hassall—I would like to make a prepared opening statement, if I may. Basically, the choice of superannuation fund is a noble principle founded on the belief that individuals will provide better for their retirement if they are allowed to control the vehicle through which to maximise their savings.

Choice needs to be aided by information. To this end, key feature statements have been proposed as the way to convey relevant information. As I mentioned, I wanted to see how easy it would be to obtain information from a key feature statement. To this end, my submission shows that I randomly selected statements from providers who are generally regarded as setting a high standard of quality for public offer funds. I want to say at this stage that I mean no criticism of the organisation whose statements I have examined. I merely wanted to point out the difficulty of assessing and comparing them, even those with a very high standard.

Before I answer questions, I also wanted to state that a well-respected consultant firm advised me that they would charge a fee of between \$3,000 and \$5,000 to examine and advise on the master funds I have looked at. It is difficult to accept that the average Australian worker is going to be able to make a decision which has the capacity to significantly influence his or her standard of living in retirement on the basis of information currently contained in key feature statements.

It is also important to understand that under the choice regime superannuation funds will become competing businesses which respond to the commercial imperative that to differentiate is to survive and grow and that to be comparable is to be vulnerable. That is my opening statement.

CHAIR—Thank you. I am Senator Watson, Liberal from Tasmania. I am chairman of the committee. Around the table we have two advisers to the committee, Mr Rod Adams, research officer, Mr Peter Hallahan and Senator Lyn Allison from the Australian Democrats from Victoria. As an observer, we have a former chair of the committee, the Hon. Nick Sherry, who may well be back on the committee. Unfortunately, Senator Sherry, not being a member of the committee, according to the rules of the Senate is allowed to observe, take notes but not speak. Finally, we have Senator John Hogg, who is a Labor senator from Queensland who no doubt will ask you a number of questions about education.

At this opportunity, I would like to say that I think the regulation of superannuation has certainly been enhanced very significantly as a result of the input over the years by the ISC. We trust that that high standard will continue under this new regime. We note that your former employer was the ISC, Mrs Hassall.

Mrs Hassall—That is right.

CHAIR—Obviously that has given you a lot of experience. Certainly, the key feature statements in evidence given to us up to date have been a focal point, together with education. It is quite likely that there will be significant improvements to key feature statements as a result of the deliberations of this committee. In the audience we have representatives from the Taxation Office, the Insurance and Superannuation Commission and also from the minister's office. So your comments are being heard by a representative group

of informed people who are basically decision makers in relation to these issues. We do value your contribution, especially coming from such an informed background.

Mrs Hassall—Thank you.

CHAIR—Senator Allison, would you like to ask a question? Senator Allison has a background as a teacher and naturally has asked a lot of questions already in relation to this hearing about educational matters relating to choice.

Senator ALLISON—One of the concerns that I raised with the last witness was that the superannuation industry has, by and large, not worried too much about whether its message has got across, especially in the realm of investment choices within funds. I wonder whether you share the view that perhaps those seeking to enter the field most vigorously will quickly learn how to appeal to people and concentrate on an area where I think the superannuation funds have failed us thus far. Could you comment on that for us, please?

Mrs Hassall—Are you talking about superannuation having failed us in the sense of investment? Is that what you are talking about?

Senator ALLISON—In the sense of explaining investment.

Mrs Hassall—My view is that many of what we call our large providers have tried extremely hard to explain investments to their membership. The difficulty is that we are actually dealing with very difficult concepts. We are dealing with a very difficult area and we are also offering people so many different choices. For instance, with the Asgard product their market choice product provides so many different strategies that the person can choose from, each with a very different objective, and to further complicate it they then provide prospective members with the opportunity to choose the underlying fund managers as well.

These are very complicated decisions because there are not only fee issues, but also a basic need to have an understanding of asset allocation and diversification and how all of these decisions impact ultimately on our retirement savings. So one has to really educate, first, on that whole investment process before one even starts to offer things like the various fund choices. Also, the investment industry talks in another language. They do not talk to us in layman's terms, which complicates it further. It is an exclusive language. Many of them try the very best they can, but at the end of the day it is a language that is exclusive; it is not inclusive. I do not believe that they have failed deliberately. I simply think they have failed because it is actually very difficult to communicate.

Senator ALLISON—Does that lead you to be optimistic about the opportunity for educating people within the next six months or 18 months to be better informed, given the failure to get through to people even on such matters as the surcharge and the need for tax file numbers? How optimistic are you that it is actually possible to do? With all the will and all the funds in the world, realistically, how idealistic are we being?

Mrs Hassall—I have to say that it is absolutely impossible. I am still working on the two key feature statements that I provided in my submission to the Senate. I am still asking

for more information. I am still finding a great deal of difficulty with things that I do not quite understand about the products. I have actually called the funds to get more information.

This time consuming exercise explains why the fee that was actually quoted to me by a respected consulting firm was between \$3,000 and \$5,000. Even for people who are highly skilled, this is a time consuming and very difficult task. Surely, they would not be charging this sort of money if it was just a simple task for them. Senator, I have to be perfectly honest with you: I feel that we have absolutely no hope of educating people in the sorts of time frames that you are talking about.

Senator ALLISON—What should we imply from that—that no matter what the time frame is it will not work, or would your recommendation to the committee be that this whole notion is dropped, that we should not support the legislation?

Mrs Hassall—My personal view is that we should really focus first on investment choice. I think I put that in my recommendation. Choice should focus on investment alternatives rather than provider choice. Because so many funds now offer investment choice people will not only be faced with provider alternatives but also investment alternatives to which they may never have been exposed.

This is a difficult process, so my recommendation, as I put in my submission, is that really we should be looking at investment choice. It is investment choice and the kind of choices that they make in regard to these investments that are really going to determine the outcome as far as the size of their ultimate retirement income goes. My preference would be that we should be starting with investment choice, that is what we should be offering, so that people, within the comfort of their own employer-chosen fund, can learn through the education process the fund itself provides for its members. Because of the familiarity that they have with their fund, they can speak to their fund administrators, they can speak to their trustees, they can speak to various people for clarification. The learning process commences within the security of their fund.

As they become more sophisticated, one must argue that, if a fund cannot provide the sort of products or the range that they are looking for, the mechanism should be there within the legislation for them to move out and to go to another fund, that is, allow for full portability. But I think that we should really be focused on investment choice first.

Senator HOGG—Following on from the issue that you have raised, what can investment choice do that can be done by choice of fund? Are they one and the same thing, in effect, or are there substantial differences?

Mrs Hassall—No, fund choice is different from investment choice. A fund choice is focusing on the choice of provider whether it is a retirement savings account provider, a public offer-type provider or it is an industry fund-type provider. That is the focus.

It does not take into consideration that, for instance, an employer could, in effect, from the menu of four funds basically choose four different providers that have got an identical investment strategy, in which case if they were each capital guaranteed—in other words, the public offer fund with the capital guarantee, the RSA with the capital guarantee and if the

industry fund had a capital guarantee, for argument's sake, and also the in-house fund—then, in fact, there is no investment choice. Yet they have complied with fund choice because employers have offered four funds. It has not addressed the investment choice issue at all or whether a capital guaranteed product is appropriate. Alternatively, it may do. Clearly, there are public offer funds I can demonstrate, like Asgard, that offer myriad choice options so, for instance, the member has the added complication of not only choosing the fund but having to make other very important decisions as part of their joining that fund, and that is investment choice.

Senator ALLISON—If it is so difficult to get advice of this sort, what will happen as we move into this regime when superannuation funds and financial institutions are advertising—and it seems fairly clear that there will need to be a lot of advertising done to persuade people to shift; I do not mean education advertising but I mean product sales advertising—in the matter of misleading advertising and to what degree a fund would thoroughly present their product? Who would have that role of supervising, checking, monitoring and bringing about compliance in that sense? Do you have a sense of who would be in the best position to do that and how it might be done?

Mrs Hassall—Monitoring and compliance: I believe that we have to have a regulator, whether that regulator is the ISC or some other body. I have noted, for instance, that the ISC have made a statement that they are not going to pre-vet any of the disclosure documentation. I have some sympathy with that view. Given the way fees and charges are hidden—even to the regulator—I think that they would be putting themselves in a very difficult position if they were to do something like vet the scope of documentation before it hit the market and miss something. This government could certainly find itself with a few problems on its hands if certain aspects of disclosure were, in fact, missed by the regulator itself.

Senator ALLISON—Does this mean that it would be up to the consumer organisations to be the watchdogs? What sort of capacity would you judge that they have to play this role?

Mrs Hassall—I have not thought about the various consumer organisations—I have to be perfectly honest with you. Obviously, as many bodies as one could have monitoring things like disclosure and as many protection mechanisms as we could have would be all well and good but, to be perfectly honest, I really do not know how effective any of these things would really be.

Senator ALLISON—The committee has heard from a number of people that they expect a whole raft of specialist consultants to develop in response to this legislation and to perhaps offer employers advice. We have heard from some that that would be quite expensive. The figures that were quoted to you—\$3,000 to \$5,000—would suggest otherwise. Is it just that these consultants have not yet done the exercise you have done and do not understand the complexities? How do you think they can short-circuit that and come up with something which is cheap advice?

Mrs Hassall—As for some of those prices, the person who is giving me the quote is an independent adviser who is not in receipt of any commissions, trailing fees or any form of remuneration from any providers. I have spoken to other advisers who have indicated to me where their remuneration would lie and that, whilst the cost to the employer may not be a

particularly high cost or it could be a minimal cost, they would have to recover their costs somewhere. Clearly, they would be looking for things like trailing commissions which, of course, the member ultimately pays for. I would really want to know more detail because I would have to question how something as complicated as this could be done at minimal cost.

Senator ALLISON—Do you have a view about commissions? Would you suggest that there should be a prohibition on commissions?

Mrs Hassall—Yes, I would. I suppose that in a market-driven environment that is perhaps an ideological view of mine. What I would really like to highlight for you is that, for instance, in the Asgard document there was a reference to the fact that their advisers are paid up to 30 per cent commission on the insurance premium.

What happens is that the life office will set a base rate commission. For instance, a base rate for a male aged 40 for \$100,000 worth of cover would be, say, \$140. What would happen is that the adviser, if he got into his computer system, would read off an amount for that particular person's age. If cover is required, there would be a base rate of \$140 and then he would add his 30 per cent, or if he agreed to a lower amount like 20 per cent he would add that amount. Assuming that he added a 30 per cent commission, he would add on a further \$42, which would then change the premium from \$140 to \$182. Obviously, as the cover increases you can see the impact this has.

During my time looking at various funds I have come across occasions where providers have said that they should not have to disclose, as Asgard have very properly done, their commission. They have argued to me that they are disclosing the cost to the member; the cost is \$182. The ISC requires, for instance, that fees and charges are disclosed. The providers say they have disclosed the charge of \$182. My question to you is: how would the member feel if he knew that the base rate for that \$100,000 worth of cover was, in fact, \$140 and that he was paying \$182 because there is now a \$42 fee?

Many service providers will say, 'Look, that commission is paid by the life office directly to the adviser. The member is still paying no more. They have been told that they are paying \$182 and that is all that they need to know. The cost is disclosed.' I hope I am making myself clear how difficult disclosure is and how difficult it is to communicate. Unless members actually understand the meaning and the impact of these charges, to actually quote figures and to quote fees and charges might not be enough. People really just do not understand the full implications of those commissions.

Senator ALLISON—I think we are understanding the complexities. Thank you.

Senator HOGG—I note from your submission that you say you spent three hours considering the two key feature statements.

Mrs Hassall—I spent considerably more.

Senator HOGG—Considerably more.

Mrs Hassall—Yes. The first three hours was spent highlighting with my highlighter pen and reading through quickly, skimming through both of these key feature statements, focusing on the areas that I could immediately pick up.

Senator HOGG—Excuse me. Just for the record, what length were the statements?

Mrs Hassall—I have submitted them to the committee.

Senator HOGG—I understand that. It is just that it helps anyone reading the transcript if they get some idea of the length of the documents.

Mrs Hassall—The documents are split into two parts. For instance, the Asgard one is split into a key feature section that comprises six pages, and there is a total of 52 pages where Asgard, for instance, attempts to explain various investment categories and various options available to the member, and also the types of investment that are available from the available underlying funds managers. The AMP one is substantially shorter, and that is quite understandable because the product is simpler. In fact, that total document I went through was 20 pages.

Senator HOGG—So basically they are reasonably substantial documents in terms of reading, let alone worrying about trying to sort out the technical side of them.

Mrs Hassall—In my view, you would not be able to make any decision on the Asgard product without calling for further brochures. There are references to further information and Asgard has quite properly drawn the reader's attention to various brochures that are available on the various underlying investment managers.

Senator HOGG—Have you tried this exercise out with someone who does not have the skills and the understanding that you have?

Mrs Hassall—No, I haven't.

Senator HOGG—I would be interested if you would and let me know the results, and what psychiatrist they are visiting.

Mrs Hassall—I will certainly do that.

Senator HOGG—It seems to me from your evidence that this would be a very difficult task indeed for a person who had low literacy and numeracy skills.

Mrs Hassall—Certainly. My background is a legal background. I am not what you would call a highly numerate person. When I looked at the calculations that I would have to make to simply work out the historical return under the Asgard product, I realised that I would certainly want someone else to check my calculations. So I have a lot of sympathy for anyone who might have a lower literacy rate than myself and even someone who has my numeracy skills will still be struggling.

Senator HOGG—I understand from your submission that you also had some interpretational problems.

Mrs Hassall—Yes.

Senator HOGG—And I am not saying that in a smart way but, of your own volition, you have put forward the fact that you found things difficult to interpret. Is this because there was no consistency between the two documents?

Mrs Hassall—It is partly because there is no consistency between the two documents. Partly, it would have been simpler if certainties were actually standardised, for instance, instead of there being no trustee fee specifically referred to in the AMP disclosure document, if in fact a trustee fee calculation or percentage was actually given, because it would certainly make it somewhat easier if it was separately itemised. The other thing is really the complexity. One product is so much more complicated than the other that sometimes it is particularly difficult, even for the providers who are trying to communicate in plain and simple English, to actually communicate the concepts that they are trying to communicate.

Senator HOGG—Typically, who would buy these products in your estimation? Would they be professional people, would they be blue-collar workers or white-collar workers? I am unfamiliar with the products, so I do not know who they would be geared at in the market.

Mrs Hassall—I would say that the Asgard products would be directed towards the higher net-worth individual. The reason for that is that it is really geared towards employers. Arguably one could say that the Asgard product is not really geared toward the award employee. Asgard's intention is for people to go through an adviser. I think that it is geared to perhaps the slightly more sophisticated investor.

The AMP product is geared towards the employer because clearly, with that product, I think I made it clear in my submission that it is in fact the employer's choice that determines which investment strategy option to bring their employees into. AMP has many products, some of which may be directed at different sectors of the market.

Senator HOGG—Just how short do you believe the key feature statement could get and still be meaningful for someone to make an informed decision on which fund to choose?

Mrs Hassall—How short it could get and still be meaningful?

Senator HOGG—You have quoted quite substantial documents which you have struggled with.

Mrs Hassall—Yes.

Senator HOGG—And we are now talking about compulsory superannuation across the nation involving millions of people having to make decisions about this. Are we going to be chopping down a forest so that people can make a decision about superannuation?

Mrs Hassall—If you had a simple product that had no investment choice, almost like an RSA type of product, then yes, you probably could provide a key feature statement that was perhaps two pages long. But the minute you increase the complexity of the product, you increase the range of investment choices available; the minute you go from the non-profit arena to the organisations that operate for profit and where commissions are payable, the disclosure requirements rise and the whole complexity of the product increases.

I think it is just impossible for some of the providers really to provide any form of meaningful information in a short form. In fact, they would be exposing themselves to charges of misrepresentation for basically withholding information that members might find important.

Senator HOGG—Would it be a reasonable proposition to put that, before we proceed down the path of choice—and you mentioned that investment choice might be a prelude to choice of fund—we would need to sort out the ability of the average person to discern the nuances within these KFS documents?

Mrs Hassall—Yes, I believe that really what we should be doing is preparing various disclosure models and really testing those models out there in the work force amongst the people who really will be faced with the choices. I think it is ridiculous to be asking me or other organisations who are familiar with the jargon of the industry, who are familiar with the way the industry works, for comment on how comprehensible or how well a particular document communicates the features of the fund. I think what we should be doing is asking the man in the street. After all, it is his money and his choice—we are imposing this on him by regulation.

Senator HOGG—Thank you very much.

CHAIR—Thank you. Unfortunately, I have to draw the line. We have other witnesses waiting. We value the contribution that you have made. Thank you for your submission and the forthright nature of your presentation.

Mrs Hassall—Thank you.

[2.44 p.m.]

BIRD, Mr Graham, Managing Director, Graham Bird Associates Pty Ltd, Suite 28, Level 7, 57 York Street, Sydney, New South Wales

CHAIR—Thank you, Mr Bird, for your submission and the matters that you have raised. I would ask you to give a brief background by way of briefing the committee on the position from which you have come, your experience and your involvement in superannuation before speaking to your submission.

Mr Bird—Thank you, Chair. Perhaps I will start with where I come from and my experience. I have been involved in superannuation for about 30 years as a consultant and, although I am in private practice running my own consultancy now, prior to that I was heading up one of the international firms in Australia, the Alexander Consulting Group, as chief executive of that group.

I provide advice to employers—large employers generally—on strategies for superannuation, and I guess it is in that context that I come today and presented the paper to the committee. However, I do work for trustees of corporate superannuation funds and other superannuation funds as well. In fact, while I was at Alexanders, I was consultant to the Accountants Superannuation Fund of which your chair is one of the trustees.

The submission I made was on a particular point that I thought worth making. If there is time, I might cover a couple of other aspects that I believe are also important. The paper that I submitted is to do with concerns that I have about one of the options relating to unlimited choice of superannuation. I believe that a number of employers are going to be attracted to this particular option because it has the potential to relieve them of the concerns about liability that might attach to an employer making a selection of funds under the limited choice option if the employer does not have to make a choice at all. Also, I guess it relieves them of the actual obligations of making the selection itself, which can be time consuming.

The earlier witness was talking about the cost of consulting fees to appoint somebody to have an employer make a choice. That is a real concern, particular for smaller employers. It is all right for very large companies to do that but smaller employers are going to find it onerous to be paying out fees for helping them make choices in a proper fashion. I note that some of the large financial institutions have stated that they intend offering a menu of funds so that it can all be arranged in a coordinated approach. Whether that is then coming up with the best options for the employees is a debatable point. Similarly, I think unlimited choice will be attractive to some employees because it seems to be the absolute or the utmost in freedom to be able to choose any superannuation fund that they wish. That, in itself, could be a two-edged sword.

One of the concerns that I have is more of an administrative nature, that is, the way the system works—coincidentally, I went through this exercise with the fund that you are involved with, Chair, for the Accountants Superannuation Fund—in trying to have a seamless transmittal of information from an employer through to the superannuation fund, doing it electronically and, for large employers particularly, to offer unlimited choice. Where they are saying to the employees that they can pick virtually any fund, you might finish up

with a large employer—and I note that, say a company like Boral are going down this track—having 100 funds to which contributions are being sent as time goes on. It might even be more. That could be quite a large administrative fact. The only efficient way to do that is to have the payroll system, as they do currently with employees' salaries or wages, to be able to remit the amount directly into a bank account.

My investigations indicate that the contributions can go from the employer's bank account directly into the superannuation fund's bank account, but the attaching information which will then enable it to be passed on to the members of that fund cannot be transmitted at the same time. So there would still be a need for the employer to send separate information across to the superannuation fund.

Senator CONROY—I cannot understand why. Is there an electronic barrier? Is the technology not available?

Mr Bird—It would seem that the technology is not available to do that, bearing in mind that you might have contributions going on a weekly or fortnightly basis with 1,000 or it could be 5,000 members attaching to that contribution to a particular superannuation fund, I do not think the banks have any great desire to facilitate that additional 5,000 entries being transmitted at the same time.

CHAIR—Could he put it in the pay slip information that would be given to the employee?

Senator CONROY—That does not identify it to the fund, though.

Mr Bird—I do not believe that the banks would want to improve their technology. In a sort of cynical way, I think it is in their interests to have the money to go into RSAs. I believe that they are not going to be overly keen to improve their systems so that you can take that next step.

Senator HOGG—That raises the issue: if the banks have developed the technology to transfer for the purposes of RSA, in the interests of making the choice easier should they be required to make that facility available to others as well?

Mr Bird—That is a good point, Senator. What I believe will happen with RSAs will virtually be the same as happens with pay systems, salaries and wages. It will be directed into an account that will be just an account number at the bank. The fact that a single bank gets 5,000 entries for the employees does not matter. It is the accumulating of them into one bank account which is where the funds will actually be transferred to, but representing 5,000 individual entities is where I see the difficulty. I think that is a point that needs to be raised with the banking fraternity, but I just raise that as an issue. It was the experience that I had with the Accountants Superannuation Fund that alerted me to this particular problem.

The other impact in terms of employees is that with unlimited choice it throws them into the kinds of areas that were being discussed with the last witness—that is, information overload. They can go to any financial adviser or any particular fund to get information about a particular superannuation fund they might want to join who is going to help them

interpret that information. The employer will not because they have elected to forgo their responsibilities in that way by offering unlimited choice. To some extent I think that is enabling them to abrogate what I put as part of the employment contract of assisting employees. With good reason they would not get involved in giving advice.

I understand, not just from hearsay but from a fairly high source in the tax office, that if an employer started to give advice in regard to that matter they would really need a dealer's licence. Inevitably, it is going to mean that the employees are going to be seeking advice from financial advisers. There are risks then of higher fees that might apply to some products. Is it really going to be in the employee's interest to have what may appear on the surface to be an attractive option—unlimited choice as to where they select their funds.

I make the final point in regard to employees. From research that I have done and from focus group meetings that I have been involved in over quite large work forces where the question of whether funds should provide investment choice has been raised, I have found no appetite whatsoever among employee populations that they really desire investment choice. They are much happier having trustees of their superannuation funds make those decisions for them because the average employee is not really equipped to go through all the material they need to, to do the research and to make the decision.

It is inevitable that investment choice will come because there is pressure, particularly at the retail end of the market, to have the kind of information that you were looking at previously and those very wide options available. I think that might only suit five per cent of the population, rather than 95 per cent of the population. In terms of responsibilities, is that the group that should be accommodated? Is it those high net worth individuals that were spoken about with the last witness or is it the average worker that should be accommodated?

Senator ALLISON—On that point, do you think that with industry based schemes there is a danger looming for unions defending those schemes and perhaps being called upon, even in an ad hoc casual way, by union members to give them advice about the alternatives which are being put up? What dangers do you think are inherent in that?

Mr Bird—I think it would be very difficult for anyone who has a vested interest in a particular fund to give advice on the alternatives. I think that, naturally, with the very best of intention, they will promote their own fund. I know a number of the industry funds are looking at extending their funds to provide investment choice for that particular reason—that they see choice of fund as being a threat to their own fund. In terms of asking them to give advice on the alternatives, I do not see that working very well. I think there needs to be some independent—

Senator ALLISON—Nevertheless, do you take the point that on the shop floor, if you like, people might seek that advice from the foreman or their shop steward—or whoever it is—and there will be the temptation to try to help them with that choice?

Mr Bird—Yes, I can see that. A lot of the larger industry funds have people who regularly go around the workplaces to help, and they are quite often union personnel. I see continuing to promote their own fund as being really a part of their role, but whether that

will enable them to have adequate advice as to the alternatives is where I would have a question.

If you do not mind, Chair, I want to raise a couple of other brief matters which were not part of my paper. One is related to death and disablement insurance. There is quite a concern in the superannuation industry, when people have the option of moving from one fund to another and exercise that choice, as to what will happen in terms of their death and disability benefits. As I understand it, some awards actually provide that a certain level of cover will be given, and that is usually attached to a particular fund that is also prescribed in the award. But as the freedom of choice moves forward and the states also give, through state legislation, freedom of choice, or unlimited choice with regard to superannuation funds, many of those award provisions will drop by the wayside.

Employers do have concerns about these things. Many employers feel they have a moral obligation to look after their employees, which is contrary to the view of some. Certainly, employers that I have had experience with generally feel there is a moral obligation there. They have questioned me as to whether it would not be simpler for the employer to arrange death and disability types of cover as an employee benefit rather than as a superannuation benefit. Then, if employees move between funds, it does not matter—they will still be covered under this employer plan.

That seems quite a logical way to go, but one of the issues there is that, if an employer does that, the benefit or the premium becomes a fringe benefit and is subject to FBT. I think that is perhaps an issue that should be looked at. I know it is not being looked at within the context of this legislation, but I think it is those types of ancillary benefits that the legislation concentrates on. The superannuation guarantee is what it is aimed at, whereas a lot of these subsidiary types of benefits are also important.

CHAIR—Mr Secretary, can you just note that point. Mr Bird just raised a pretty significant matter. We will pick it up in the *Hansard*. It is in relation to an employer carrying a separate benefit for insurance and it becoming a fringe benefit. It might be something we should look at. Sorry about that. I thought it was an important point.

Mr Bird—Thank you. The other point I would comment on is the timing of the introduction. I notice in the ASFA submission that they have suggested that, instead of having two introduction dates—one for new employees starting July this year and the second for current employees starting from July two years hence, 2000—they are suggesting that it be a uniform introduction date of 1 July 1999. I would certainly support that. I believe that there is insufficient time when you consider that the legislation will be considered by the House in April or May.

Assuming it goes through the regulations, as I understand it, it will not be commenced to be drafted until the legislation is passed, so it means that the regulations will probably not be available until June. That leaves very little time for introduction by employers, and I think that imposes an unfair burden on employers—particularly to know some of the issues that are far from clear in the legislation or the explanatory memorandum, such as the informal agreements.

They seem to be in the minister's statement announcing it. He spoke of informal agreements. There is brief reference made in the EM about informal agreements and it even states that the employer will be able to vet the decision of employees or the request from employees and continue contributing to existing funds or RSAs. I am not sure that that is what is really meant. That would seem to defeat the objective of the whole choice argument. Under the informal agreement approach an employee can make a request to an employer and, if the employer agrees, that will be the chosen fund. But if the employer can vet or reject those kinds of requests down to the point where it is only existing funds that are being chosen it seems to totally avoid the objective of the legislation and the intent of the legislation. I guess it will not be until the regulations come out that those kinds of things will be known, because 5.104 in the EM certainly does not give any assistance in that regard.

Coming back to my point, I would certainly endorse the view that, if a uniform date for both new and existing employees being offered choice was deferred until 1 July 1999, it would make a huge amount of sense. I guess the other small point there is that employers who make regular payments for their employees will have to offer choice from July this year, whereas under the superannuation guarantee there is no requirement for employers to make contributions on a regular basis. They can make the contributions for the 1998-99 year; they can make that as late as August 1999. So in that case employers who do not make regular contributions for their employees would virtually have another 12 months to be able to introduce the choice for new employees anyhow. It seems to be a bit hard on employers who make contributions on a regular basis to have to start from July this year, whereas others would have 12 months or 13 months to make that introduction. In terms of an introduction, that is all.

Senator WATSON—Isn't that in breach?

Mr Bird—No, the SG does not have to be in until the last day—14 August.

Senator WATSON—Yes, but in terms of choice you have got to offer choice to new employees and you have got your 28-day rules and those sorts of thing.

Mr Bird—I agree, but in terms of them actually paying the money, it may not happen for another 13 months, so it seems to be quite in conflict with the intent. It is probably a bit untidy in terms of the drafting but that is the way it appears.

Senator WATSON—Would you favour excluded funds being within the menu, including the unlimited menu?

Mr Bird—No, I would not. It would make it very difficult from an employer perspective to be trying to decide whether or not an excluded fund was a complying fund. I think that would probably be the main issue. It would be quite a hard administrative burden to expect an employer to check out excluded funds.

Senator WATSON—Would you would like a provision prohibiting that?

Mr Bird—Yes.

Senator HOGG—I have a couple of questions. You were mentioning the plight of smaller employers and the fact that they would need to pay fees to consultants because of the difficulty in putting together the package. What sort of fees do you envisage they would be faced with?

Mr Bird—I heard the last witness quote from \$3,000 to \$5,000.

Senator HOGG—Yes, that is why I am asking. There seem to be varying views as to what the fee would be.

Mr Bird—I am a consultant in an independent practice. Even though a good consultant should be able to put together a generic type of package that would apply across all their clients for that matter, if they do the investigation and believe that a particular set of four funds will accommodate their client base, amortising that across their client base you would probably be looking at maybe three or four hours work for each client, so you are probably looking at \$1,200 to \$1,500 or something in that order. If it was just a one-off job for a particular client, where they wanted special attention given or had particular requirements, I would say that \$3,000 to \$5,000 would probably be quite realistic in that case.

Senator HOGG—What about the administrative impost upon small business that this will create? Surely, some of the small business people are going to throw their hands up in the air and say, ‘Not something else to distract us from our goal, and that is running our business.’

Mr Bird—Yes, I could not argue against that.

Senator HOGG—That is right, so how are they going to deal with it? Are they going to do what was described just before as putting the hand on the shoulder of someone who knows and saying, ‘You take it over for me and we will leave the running of this to you’? When we look, in terms of the employee choice that will probably happen to a substantial number of employees, so in a sense they will abrogate their responsibility or defer their responsibility to someone else, and so will the employers. It seems as though whilst we are going down this honourable path of creating this great democracy in which everyone is going to have choice, it really is a veneer, because people will pull back. How does one stop it?

Mr Bird—The small employer will probably be happy to accept the advice of a financial adviser who approaches them with a package type of arrangement. They would probably say, ‘That will do me thanks very much’, without looking into it too much further. Whether, at the end of the day, that is the best for the employees, I do not know.

Senator HOGG—That is the real dilemma, isn’t it?

Mr Bird—Yes.

Senator HOGG—Because this is really meant to be a benefit to the employee to assist them to get a better retirement benefit rather than to assist the employer.

Mr Bird—Yes.

Senator HOGG—So, by the employers not doing their job with due diligence, the person to suffer is going to be the person who is meant to benefit out of it.

Mr Bird—I think there is certainly that possibility. There are a number of employers who will probably wind up their own corporate superannuation funds as the result of it, because there will be dissipation of participation in those corporate funds. I believe that would be a retrograde step because in many instances the corporate fund contributions are much higher than the superannuation guarantee is. So you would probably find in those situations that it would just fall back to being the mandatory requirements as far as contributions are concerned. That would certainly be a retrograde step.

Senator HOGG—You mentioned death and disablement insurance. I do not know if I misunderstood you, but I presumed you were talking about those who were already in existing funds and had changed to a new fund—

Mr Bird—Yes.

Senator HOGG—but were not new employees necessarily?

Mr Bird—Not necessarily, no.

Senator HOGG—What is your view then for those people who will be new employees when the 28-day regime is in place? Some of those previously had immediate access to an insurance benefit and now, under this proposal, they will not have that sort of access.

Mr Bird—I think that when an employee ceases employment with one employer it is fairly well understood that the benefits would cease with that employer and that there would be no right to carry those particular shape of benefits forward to another employer. I think that the fund that they then choose under the choice regime would be a matter of examining the key features, statements and respective death and disablement benefits being offered.

Senator HOGG—Yes, but in many instances now those people have access to death and disablement from day one. This regime will deny them that access, and that has been raised with us by other witnesses.

Mr Bird—Yes, I can understand that is because of the timelag—and that is really what you are talking about—between starting employment and choosing a fund. I suppose that would be overcome—as I stated earlier—by enabling employers to provide the death and disablement cover as an employee benefit rather than as a fund benefit, because you could have the benefit then attaching directly from day one.

Senator HOGG—Another way that I have suggested—and not knowing the mechanics of it at this stage—broadly speaking, would be for the employee, upon commencement of employment, to be enrolled into the default fund de facto until they made the decision, thereby being able to access the benefits of the death and disablement and then, having made their choice, transfer into the fund. In most instances I would imagine that the default fund

that they would be enrolled into would, nine times out of ten, be the fund that they will ultimately choose to go into anyway—if the employer has done their business the right way. But there seems to be no body of research at this stage to support that contention. What would be your view there, if that were to be the case?

Mr Bird—I think in theory it sounds fine, but I doubt that insurers would be too happy about that because of the fact that they might be just carrying the risk for a month and then have the person move on to another fund. I think this is an issue that really the insurers are trying to come to grips with—this whole issue of transfer between funds and automatic cover on entry into a fund—but in theory I think that would be the logical way to go.

I also agree with your sentiment that the majority of employees would probably finish up in the default fund anyhow just because they either will not be in the position or will not want to make a decision. Alternatively, they will say, ‘Oh, that is the fund that is being endorsed by my new employer so therefore that is probably the fund I should go into.’ I suppose at the end of the day we might be going through this whole exercise for very little gain anyhow.

Senator HOGG—So how many people do you believe will actually go down the path of exercising a real choice of funds? We have heard figures from previous witnesses about people not really exercising their rights when they have been given the right. Do you have any feeling for that?

Mr Bird—I think a large proportion would prefer not to have to make the choice. Therefore, they can choose the default fund. I think that could be as high as 80 or 90 per cent. I think it is probably the 80/20 kind of rule.

Senator HOGG—So really what we are looking at doing here is legislating for about 20 per cent of the operation.

Mr Bird—Yes. I guess only experience will tell.

Senator HOGG—I know. It is a guess.

CHAIR—If there are no further questions, thank you Mr Bird for appearing before the committee this afternoon.

[3.26 p.m.]

LOCKERY, Mr Kenneth Norman, Principal, Towers Perrin, Level 16, MLC Centre, 19-29 Martin Place, Sydney, New South Wales 2000

NEMEC, Mr Tony, Consultant, Towers Perrin, Level 16, MLC Centre, 19-29 Martin Place, Sydney, New South Wales 2000

CHAIR—I welcome to the committee representatives from Towers Perrin. We look forward to your oral presentation. Thank you for your submission. We will invite you to speak to the submission.

Mr Lockery—Thank you, Mr Chairman and senators. I would like to read a brief opening statement, if that is permissible, then we are happy to take any questions after that. From our perspective, employee choice of superannuation fund is the sort of individual freedom of choice that one can readily associate with a democratic society such as that that we enjoy in Australia. Furthermore, individuals are more likely to value and take an interest in something where they have an element of choice or control.

For those reasons alone one could justify the introduction of a system giving far greater control of the choice of superannuation fund to individual employees. However, the government has chosen to justify employee choice of superannuation fund on the basis of the economic benefits that it will supposedly produce—that is, greater competition leading to improved investment returns and lower administrative costs. Indeed, some members of smaller funds may achieve these benefits. On the other hand, we submit that such economic benefits will not be achieved for the vast majority of employees in large employer based or industry funds. Instead, in aggregate such employees are likely to suffer a net economic loss as a result of greater individual choice of superannuation fund.

The key issue that the government has failed to recognise is the efficiency of our present trustee based system in producing intense competition at the wholesale level between investment managers and between fund administrators. It is clear that many other industries' participants support our view. Our submission to this committee recommends that a number of objective measures be established to test whether or not the government's claimed economic benefits are achieved in practice and to identify areas for improvement in future.

In regard to the proposals themselves, our first concern is timing. Given that superannuation is a very long-term issue, we cannot see the logic in a rushed implementation of the government's proposed measures. The industry itself has suffered from enormous legislative change over the last 15 years and is still coming to grips with the government's nightmarish surcharge legislation. Furthermore, individual employees will not be well served by the government implementing a system of individual choice before the individual employees have a reasonable opportunity to come to grips with the complex issues involved in choosing an appropriate fund.

Finally, our submission addresses a number of technical points and issues of detail. For the proposed system to have any hope of being a success, it will need to operate as smoothly and as efficiently as possible for both employees and employers. Our detailed

recommendations aim to improve the day-to-day operation of the proposed system. Naturally, we would be pleased to answer any questions.

CHAIR—Mr Nemec, would you like to make an opening statement?

Mr Nemec—That is our opening statement. I will not add to it at this stage.

CHAIR—Fair enough. What is your view, Mr Lockery, about employers' obligations in terms of accepting as part of the menu or as part of the complete freedom of choice option of excluded funds?

Mr Lockery—I think that it would be better if the unlimited choice option allowed employers to say it is unlimited choice other than excluded funds. I think some employers will want to include excluded funds, if that makes sense, in the unlimited choice option and so it should not be completely out of the process, but it would be much better if that particular type of fund could be left out and still be classified as unlimited choice. I say that because of the difficulties for employers in knowing who they are dealing with and being satisfied not only that the fund in the first place is complying but that the contribution to the fund is actually getting to the fund rather than being diverted along the way or something like that.

If I had my own excluded fund, it may well be that Ken Lockery Nominees or something was the trustee of that fund and a cheque made out to Ken Lockery Nominees could, I suspect, be fairly easily banked in something called Ken Lockery Pty Ltd or anything else. So it is not just, as I think the previous speaker raised, an issue at the point of telling whether or not the fund is complying; I think the system could be improved to allow that to be done fairly easily with a system of improved reporting back from the ISC for those funds. It is also an ongoing issue about making sure that the contributions actually reach the fund where that fund is being operated in a manner where effectively its mailing address may be the same as the mailing address of the employee.

CHAIR—So you would like an amendment to the choice legislation to exclude excluded funds from unlimited choice; is that correct?

Mr Lockery—I guess I just want to be clear that you should be able to not offer an excluded fund. In other words, I should be able to say to you, 'You can have any fund you like other than an excluded fund.' I should also be able to say to you, 'You can have any fund you like including an excluded fund if you wish,' because there will be cases where I want to allow people to choose an excluded fund.

CHAIR—But if you go down that path, there are heavy responsibilities on the employer.

Mr Lockery—And some employers will be happy with that in some cases. Some of it depends who it is. There is no doubt, for example, that there are many organisations where the senior executives have their own excluded funds. When you are in competition with another firm or whatever to employ somebody and this person says, 'Will you pay the contribution to my excluded fund?', quite often that will be something you will say sure to. I

am quite happy to do that for my chief executive, but I probably do not want to do it for my 3,000 employees.

CHAIR—What about employers' excluded fund for the very small employers?

Mr Lockery—I have not really thought a lot about that. I would think that an excluded fund should not be able to be a default fund. That seems like a logical conclusion to me. If I am only employing three people and I am the other person in the fund, I should not be able to say, 'If you do not make a choice, I am going to put you in my excluded fund.'

CHAIR—But if as a result of difficult trading the employers' excluded fund ceases to become a complying fund, the tax rate is 50 per cent on the assets. Shouldn't the employee be aware of that consequence because in such an event he could lose a lot of his superannuation guarantee benefits which could go away in tax as a result of it becoming a non-complying fund?

Mr Lockery—I understand that problem. In an individual choice environment, if the member given that information still says, 'Yes, I want to be in that fund,' then I cannot see that I object to that. I come back to saying that I do not think it should be the default fund, because that is where the member who does not make a choice will end up.

CHAIR—I am taking it another step. I acknowledge that point, but I just have some reservations about the consequences of communication in terms of a fund being a non-complying fund, the tax consequences that can flow from that and the implications that that could have on the superannuation guarantee amounts that are set aside for that employee.

Mr Lockery—I agree, although that seems to be an argument in favour of not allowing excluded funds to exist.

CHAIR—That is right.

Mr Lockery—It is not a case of not allowing them to be chosen in this way, but simply saying, 'You can't have excluded funds, because they are too much at risk of becoming non-complying and that puts people's retirement savings at risk.' I do not know what the statistics are. Presumably, the ISC could tell you what number of excluded funds have so far had their complying status withdrawn, but I am not aware of it being a significant number.

CHAIR—But it does not have to be a significant number to cause individuals a lot of distress.

Mr Lockery—That is true. It is also the case that there will be some other non-excluded funds which become non-complying for one reason or another. It may be more likely in excluded funds, but we seem to be in a question of saying, 'To what extent do we protect people from choosing a very bad option.' What I am saying is that, as long as it is a proactive choice on their part, it cannot be the default fund but if as a proactive choice they have chosen that excluded fund then the nature of choice is not to protect people from making bad choices.

CHAIR—But these sorts of choices are going to be in an environment where there are very few employees, where there is generally a very close and trusting relationship between the employee and the employer. It might be difficult for an employee to resist that.

Mr Lockery—Yes, although that situation is certainly no worse than where they are at present where those people are automatically put into an excluded fund without having the option of exercising a choice.

CHAIR—I have a problem with that, too.

Mr Lockery—So do I. I am not sure the way the Wallis report put it was absolutely the best way. They appeared to try to exercise a lot more control over the way in which excluded funds could include people who were not, for example, trustees. While there may be some problems with the Wallis suggestions, it certainly is a good direction to move down the path of saying, ‘You’re only going to have trustees in excluded funds.’ That would solve your problem in a sense, because this would take these people out of it. I think the issue is more in the regulation of excluded funds rather than in whether or not they are part of choice.

CHAIR—But the choice highlights, I think, the problem—

Mr Lockery—Yes, it does.

CHAIR—Of including arm’s-length employees within the choice provisions.

Senator CONROY—You make the point in your submission about whether an employee’s existing fund—the one they are currently putting into—should be included in the choice menu as a fifth option. You seem to be suggesting that, if it was not already one of the four that was being put up under limited choice. Is that right?

Mr Nemec—Perhaps I could answer that. In contrast to what we have just been discussing, this is suggesting that where an employer decides to go down the limited choice option, the menu of four, at the moment if the employer wants to provide any additional funds over and above the four, it would require a key features statement of that fund to be given to the member. We say that, where the employer would like to give the employee the option of having their own fund, which they are currently a member of, as an additional fund to which they could contribute in addition to the menu of four, that should be something that should be permitted without having to provide the key features statement of that fund—for obvious reasons, because the member would have already received information on that.

Senator CONROY—What if your own existing fund is not one of the four? Say that I work for Linfox today and I have the TWU super fund, and I change and I am working for Mayne Nickless tomorrow. I walk in and they have a service provider providing four, none of which is the TWU super fund. Would you be saying that they should be entitled to have it in that case, or that only if they remain with the same employer they should be entitled to ask for it?

Mr Nemec—We have not taken it to that step. We are saying that the new employer could decide to provide that option. But I guess that would be another option that you are discussing—

Senator CONROY—To try to facilitate genuine choice, if you are already in an existing fund and you are happy with it and all you have done is move employer, would you see that that is a way to facilitate genuine choice, that you get to ask to have your existing fund in if that is what you want?

Mr Lockery—We were not proposing that it should be compulsory to allow people to stay in their existing fund, because essentially that is, in terms of administrative consequence for employers, similar to compulsory unlimited choice—that is, people are going to come along with a whole range of different funds.

It seemed to me the most obvious case where it might be allowed would be in the similar sort of circumstance that you mentioned, and that is that the employer is there offering four funds—one of which might be a particular industry fund—but somebody comes along who is already in a different industry fund and would like to stay in that industry fund. It seems a logical option to say to that person, ‘Okay, I am happy to contribute to the industry fund you are already in.’ We are not trying to compel that on employers, but we are saying that if employers are prepared to do that, they should be able to do so.

But when they want to do that, they should not then have to go and say, ‘Now I have to go and get a key features statement for the TWU fund because I do not have one of those; it was not in my selection of four,’ when the member, because he is already a member of the TWU fund, knows everything about that fund that is in the key features statement and more through the annual reports. So we were not looking to compel employers in that regard, but we felt that many employers would be prepared to make that offer to employees if they did not have to then go and track down all the key features statements for funds that people are already in.

Senator CONROY—The example being that in the transport industry there are actually three competing industry funds. There are probably more, but the three that come to mind are a bus proprietors’ fund and a long distance drivers’ fund as well as the TWU super fund. We frequently got into a situation where people would be changing companies within the same industry and there was no portability, and one of the thrusts of competition is portability.

You can continue. I was just interested. I probably jumped an extra step to what you were actually intending, but I was interested on your views on that.

Mr Lockery—Again, the employer in that situation could simply have a stable of six funds, being the three industry funds and three others. What we were trying to avoid was to say that an employer may very much actually want to say, ‘Our preference is for this one’—it might be the TWU fund—‘but if you happen to already be in one of the others, we are happy to contribute to that.’ We were just trying to simplify the process by avoiding the key features statement, having employers chasing around all over the place for key features statements—and, in particular, that would work with my executive example and excluded

funds. It seems to me that, if you go down the four fund path, you can only end up extending that to a larger number to include an excluded fund if somebody produces a key features statement for an excluded fund, and I cannot imagine anyone is going to want to produce a key features statement for an excluded fund. There is just not a need for a key features statement to be provided where a person is already in a fund—for that fund.

Senator CONROY—To change the topic, you mentioned the effectiveness of choice. I have to say that, unfortunately, you have not heard the rest of the submissions, but few have been as bold as you to actually criticise. I guess everybody is still licking their wounds after the surcharge and have decided that there is more than one way to skin a cat. In this case, it does not matter if the cat is dead in the middle of the road. You are the only one to express any reservations about the potential consequences which the majority of people have tried to suggest: that the force of competitive pressures were going to see a reduction in administration costs, et cetera, which your examples clearly show they are not.

This morning, we have been debating at length some form of measurement, particularly in terms of a public education campaign. It was suggested and discussed that there should be some test, perhaps similar to the 80 per cent Telstra number call display threshold before you actually proceed so that you can say, 'The public education campaign has worked. People understand what a KFS is.' Unfortunately, that has not met a lot of widespread support either. That might be another of the tests.

Mr Lockery—Apart from people thinking that KFS is Kentucky fried soup or something—

Senator CONROY—One of the senators called it a KFC the other day. I am dreading going into the Senate and doing that.

Mr Lockery—I believe for a large part of the population that an education campaign, no matter how well directed, will be fruitless. Therefore, trying to achieve a certain level of outcome, if it was possible to measure that outcome—I cannot immediately think how you would measure it—will—

Senator HOGG—How big a section?

Mr Lockery—Forty per cent. The statements I have heard, which somebody else has probably told you, is that there is some study that says 40 per cent of Australians cannot interpret a bus timetable.

Senator HOGG—Forty-eight per cent.

Mr Lockery—Those people have no chance of making an educated assessment of superannuation choice. They will have two logical choices to make. One is to ask to stay in the fund they are already in, if they felt happy with that fund; the other is to accept the default fund, which is largely what they have at present, that is, their employer puts them into a fund. They are the only logical outcomes for close to half of the population because they have absolutely no chance of looking at information that will be provided, no matter how much education is provided, and making a sensible individual choice.

Senator HOGG—What is your view of what this exercise is about? If we are excluding somewhere between 40 to 50 per cent of the population, what is it really about? Are we kidding ourselves?

CHAIR—That is a quasi political question.

Senator HOGG—He does not have to answer.

Mr Lockery—Let me come back to the very beginning. I do believe what I said at the start, that is, purely the fact that freedom of choice is a basic tenet of our society and that people will take more interest in and place more value on something where they have some level of control, could be seen as sufficient reason in itself for introducing a system of choice. If there are half the people, if there are a quarter of the people, who can benefit from choice, the right message to get to people is, if you have the skills to benefit from choice, use them. If you do not, you should go down the default path. The problem in the UK, I believe, was substantially that the government promoted a message that people should exercise their right to get out of all these other schemes and choose their own funds. I think that promoting a message that people should make use of this choice, as opposed to accepting the default, is a very bad message for a large part of the population. Close to half of the population would be better off simply accepting the default offer because they are not skilled at making a choice.

The other half—or less than half or whatever the number is—who do have the skills to make a choice will see that as very valuable, and giving them that choice may be a valuable thing to do. I am not convinced that, at the end of the day, those people will actually be economically better off, but they may do things like make bigger contributions to superannuation because they feel they are in control of the superannuation rather than say, ‘That is too hard. My employer looks after it. I’m not going to touch it. I won’t contribute to it.’ So I think you can get a good outcome even if the net result is that administration costs will be higher in aggregate than they were prior to the introduction of choice.

Senator HOGG—Will that mean a lesser return for those who do not exercise their choice?

Senator CONROY—You have a net situation where you are saying that those who could have the skills are not necessarily going to be any better off but those forced into choice that do not have the skills are going to be worse off, so the net outcome is that the overall package, for instance, reduces national savings.

Mr Lockery—Overall, I believe costs will increase, because we will have substantially greater marketing costs, greater administrative costs, and costs of people switching funds. Exactly who will bear those costs amongst the groups of members will be different from case to case, but I expect that the general rise in administrative costs will be borne across all members and therefore will mean that, for a lot of people who just take the default, yes, their net benefits will be a little lower.

Against that, it probably is fair to say that we have definitely seen in the marketplace a lot of people looking at how they can improve their fund with the advent of choice coming.

That is the offset to that. That is the case of somebody—particularly, say, employer sponsored funds—saying, ‘How can we make our fund more attractive to members? What can we do better?’ In that sense, the mere threat of choice, if you like, is actually having some positive benefit in the marketplace, because people are saying, ‘Yes, we think we’ve got a good fund but maybe we could make it a little better to be more competitive.’

Senator CONROY—With a fund that is charging \$32 me a year and returning 18 per cent, it is going to be hard for me to be better off by being forced into choice, you would have to say on balance.

Mr Lockery—Yes. I do not believe your fund will return 18 per cent a year forever.

Senator CONROY—Last year.

Mr Lockery—But yes, obviously that is a competitive fund, and I believe the administrative costs of funds like that will rise because my assumption is that that is an industry fund—I could probably guess which one—and they will have to take a much more aggressive marketing approach to their fund and that will substantially increase their administrative costs. For people in that situation who then say, ‘I’ll just stay in that fund. It’s a very good fund. Why would I move?’, the only change they would see is a higher administrative cost.

Senator HOGG—Could I pursue that issue of the economic loss by some people, because not too many have been prepared to come forward and say that some will lose out of this. I do not know if you are a brave new person in a brave new world.

CHAIR—Frequent contributor to the superannuation deliberations!

Senator HOGG—If that is the case—and I have no doubt that there will be winners and there will be losers—it seems to me though from what you said before, and correct me if I am wrong, that it is going to be those people in the bottom 40 per cent or 50 per cent who are not going to make the choice who are most likely to lose. Is that a reasonable assessment? If so, those people, to me, are the people who really—

Senator CONROY—Can least afford to lose.

Senator HOGG—That is right. They can least afford to lose. They are the people who should be the winners.

CHAIR—How significant is this loss going to be? Can you quantify it?

Senator HOGG—That is what I want to find out, too.

Mr Lockery—I do not think I can quantify it. We are saying that in fact the government, the ABS, or somebody, needs to institute some process for measuring things like the change in the cost of administering superannuation, in the same way as the industry would tell you that the cost of administering superannuation has risen enormously as the result of legislative change over the last 15 years, that this is just one more area where the cost of administering superannuation will rise.

Senator CONROY—Is that a fair thing to say? Most people would say that the cost to a member of administration has gone down substantially with the introduction of industry funds and a bit of competition.

Mr Lockery—Yes, but that is the net effect.

Senator CONROY—In the overall administration, the dollar has gone up, but to a member of a fund, unless they are trapped in a National Mutual fund, they are doing all right.

Mr Lockery—That is the net effect though of, on the one hand, the introduction of industry funds, the advent of new technologies, and things like that, relative to the fact that I am sure that that same industry fund would tell you that if it is \$30 or \$32 a year in fact it could be \$25 a year, if it did not have to comply with all the legislative changes that have occurred. Legislative change has increased the cost of administering superannuation and this will do likewise. How significantly it will increase the cost I am not in a position to tell you. As to whether those people who just stick with the default will be worse off: I think that depends on whether or not choice or competition improves the default as such.

In some areas, I think that is true. We are seeing funds, if you like, improving their fitness for a choice environment and that will offset some of that. In areas which are very lean, very cost competitive and very well invested, as may be the industry fund that you referred to, it will be very hard to see how the people who are in that fund, and stay in that fund, will not simply be economically a little worse off as a result of choice. That may only mean that the cost of administering that fund rises from \$32 a year to \$35 or \$40 a year.

Senator CONROY—We are talking about a \$20—almost 50 per cent—rise to cover possible impact of choice.

Mr Lockery—While that is higher than I just immediately suggested, it does not surprise me that it could be that much. At the end of the day, of course, the investment performance of the fund is dramatically more significant to the end outcome than the administrative costs. Still, a rise of \$16 a year is \$16 in somebody else's pocket instead of that member's pocket.

Senator CONROY—Coupled with the other potential problem of the removal of super from awards, where you can see employers move from—we talked about this with the institute of actuaries this morning—monthly payments to annual payments in arrears; you can pay once a year at the end of the year with the loss of compound interest effect. Those two things in particular could see a reasonable drop in a final retirement package.

Mr Lockery—Yes. In fairness, I have to say that the area of the community in which we work is an area where everybody pays monthly or weekly. I am not experienced with the area where people pay annual contributions because they can get away with it or something like that and are only constrained by awards. There is always that problem that, to the extent that there is some sort of a regulatory mechanism, whether that is legislation or an award base, taking that away has that sort of problem. Of course, the original intent with super guarantee was for quarterly contributions under super guarantee.

Senator CONROY—They must have missed that little legislation going through amending that bill. Maybe they will talk to me about that when they appear.

Mr Lockery—That never actually made its way through to being the case. Obviously, that would partially offset the problem. Without further analysis, I am not in a position to say even whether that should be monthly contributions under SG requirements, but I think there probably is a need to say that, if you take awards away, you need to look at some of the provisions in awards and say, ‘Do these provisions need to be imported into the super guarantee legislation?’ I can see the frequency of contributions could be an issue in that regard.

Senator CONROY—The actuaries will be supplying us with some calculations based on moving from monthly to annual payments in terms of being able to calculate projected losses.

Senator HOGG—It has been put to us that investment choice may well be an intermediary stage before we go to full fund choice. What is your view on that?

Mr Lockery—This is sort of like undoing where we have got to and then going back to something entirely different. Fund choice is a bigger issue than investment choice. I think there is no question about that. Fund choice carries with it investment choice almost as part of the process, but it is only one part of the process so that, if the reason for that was to say it would be easier to start by educating people about investment choice and then at a later time to proceed to fund choice, I would agree with that.

I guess I have already said that I think that, with the best will in the world, an education campaign will only affect a proportion of the population and that there will be a whole lot of other people who cannot benefit from that simply because of their level of English, understanding or whatever in that process. I think that is the same for investment choices as for fund choices. I am not sure that a two-stage process would be better. I would in some ways prefer us to just stick to the concept that we have and just give us some time to at least educate those people who can benefit from that education. At the moment we just have no time to educate anyone on the subject.

Senator HOGG—So in that sense you may well not have the time. You have expressed a view here today that the time line should go out 12 months. Should it go out further because, as I understand the education process, there is education of employees, education of employers comprising large employers who predominantly will look after themselves, smaller employers who will be a real can of worms in terms of trying to educate them and then those employers who we have not focused on here who we heard about yesterday—the voluntary employers, by that we mean the local kindergarten committee and similar groups. They are dotted right throughout the nation and they have to come to grips with this legislation as well.

It seems to me that there is an enormous task even if one takes into account your view that it will not reach the vast broad mass successfully. Is the 12-month time frame extension that you are seeking sufficient?

Mr Lockery—Our preference expressed in the submission is for a single date which would be two years away. That was actually our preference. I guess we have said that, if new employees are going to be done first, then 1999 would be acceptable. I say that in a context where the expectation is that all of the regulatory environment—that is, the legislation passed, the regulations gazetted and all those sorts of things—would be completed by at least July this year, so there would be at least 12 months from completion of the regulatory environment.

I would like to also say if there were no other changes to superannuation in the meantime. We have never actually had a chance to deal with one change at a time in this industry. Whether or not that 12 months is then enough very much depends on who is going to take the education role and how quickly they do it. Some of my own clients are very keen to do that education and will do it themselves. They will move fairly quickly so I believe 12 months would be a reasonable time frame for them. Of course, again I am dealing at an end of the market which is not typical of the market as a whole.

I guess there is a need for other bodies that are more centralised—be it the government, the tax office, dare I say it, or other such bodies; I am not really sure who the right body is—to do a broader community campaign. My fear there is that 12 months is enough if people were really flat out at doing it for that period. But the inevitable sorts of delays that particularly occur with more centralised campaigns may make 12 months too short.

Senator HOGG—What form would that campaign take?

Mr Lockery—That is a very hard question.

Senator HOGG—It is a very pertinent question and I will tell you why. It is not a trick question. We have had evidence today where the Taxation Office undertook a campaign on the dirty word ‘surcharge’ in trying to get tax file numbers. So far we believe there has been a response of only 44 per cent. That is in spite of the best intentions, the intensity of the campaign and the financial penalty that hangs over people’s head at the end. The best we believe is 44 per cent. Now that is not a tax office figure; that is a witness’s figure who was here today, so I cannot guarantee it is correct. But even if it is a little bit out, it raises within me the format of the campaign and the effectiveness of the campaign.

Mr Lockery—Yes, and I do not think the campaign itself can do much to educate people—that is, I think the campaign has to focus on convincing people that they want to go and get education. In other words, it needs to tell people that there are sources of education out there, that there are places you can go to get information—be it from consumer groups, bodies like ASFA or wherever—and convince people to seek it out.

Trying to give people messages that you need to compare administrative costs and you need to look at all the underlying costs not just the high profile stated cost is not something you can do, for example, in a television campaign. What you have to do is warn people that a choice of fund is a really serious decision that they need to make after serious investigation and that there are sources to help them. Those sources need to be identified and brought up to speed ready to help people.

Senator HOGG—But there would need to be someone coordinating it such that there was a consistent message being put across?

Mr Lockery—Yes, which is why that needs to be sort of centralised in the first place. While I believe the 44 per cent is probably about right from everything I have heard in regard to tax file numbers, I am not extraordinarily concerned about that because at the end of the day I believe it is about only 44 per cent of people who you are going to be able to educate any way. So in a sense I think there is probably a high correlation between the 44 per cent who have provided their tax file numbers and the sort of people who can benefit from an education campaign of this.

It also has to be recognised that anyone who knows they have income above \$85,000 has no reason to provide their tax file number; they are going to pay the 15 per cent rate any way so why bother? That does also depress the tax file number figure.

Senator CONROY—You actually think they are going to end up paying it? That is good. The tax office will be happy to hear that.

CHAIR—It is my understanding, Mr Lockery, that the 44 per cent was an earlier figure. It has since risen. The aim is to get it much higher. I am hopeful that we may be able to get a statement which we will issue tomorrow.

Senator HOGG—Casuals is the last issue I want to raise because you are one of the few who have raised it in their submissions. There are some industries that have high contents of casuals. I note the view you have expressed there in respect of casuals starting each time, but what about from the start-up date of the operation of the legislation? If there is a different date for new employees and existing employees, should casuals be treated as new employees or should they be treated as existing employees, not getting into the nuances of the definition?

Mr Lockery—Technically a casual is a new employee the next time they come to work. I do not see any particular reason not to treat them as a new employee in that context. Our concern is much more with the question of where, once choice is exercised by a casual employee, it should not be a case of them coming back and asking to re-exercise it every time—when they come back next week.

Senator CONROY—Next Saturday morning.

Mr Lockery—Yes. I find it hard to see why one would not treat a casual as a new employee. Some of the problems associated with existing employees—defined benefit schemes and unvested benefits, all those sorts of things—basically do not exist in regard to casual employees. It is a simpler process. There is a new hire point. I cannot say I am an expert on all the complications that arise with casual employment, but I would expect them to be treated as new employees.

CHAIR—There are no further questions. Do you have a concluding comment?

Mr Nemec—I was going to say something on a couple of things that you raised before to do with timing. The point we made in the submission was very much, for most employers approaching this issue from an employee relations point of view, that it makes more sense to start off from the assumption that whatever rights are extended to new employees should apply equally, if not more assuredly, to their existing employees. Realistically, to introduce a system, it makes more sense to introduce it across-the-board. For that reason, we would say the year 2000 makes more sense from that point of view as it would really be only by that time that you would be able to cope with the accrued benefits and other types of issues if you are going to be dealing with existing employees.

The other point that we discussed today was very much that I do not know whether it is because people in the industry have superannuation fatigue syndrome with legislation, but I suspect for those in the population not within the 44 per cent but the other—

Senator CONROY—They are sick of it too.

Mr Nemec—They are sick of it. Maybe I am just an optimist, but I feel this is the one chance for a positive message. The industry has had so many negative messages over the past few years that, if this message is not handled correctly, then you lose another generation of the cynics to superannuation. For that reason, I would say it is better to take a little bit of time and get it right.

CHAIR—Thank you very much, Mr Lockery and Mr Nemec.

[4.13 p.m.]

THOMAS, Mr Brian William, Financial Products Manager, NRMA, Level 2, 309 Kent Street, Sydney, New South Wales

CHAIR—Thank you very much for your submission on behalf of the NRMA. If you are not familiar with the rules, you may like to give something of your background and the reasons why you are submitting to the committee, and then speak briefly to your submission. Following that, members of the committee will ask you some questions.

Mr Thomas—My background is 20 years in the financial services industry centring predominantly on superannuation, from superannuation consulting and asset consulting to communication and marketing of superannuation programs to large employers and to small individual superannuation funds. My role in NRMA is the development of the superannuation strategies and products. Those are probably the relevant details.

Our paper looked at what we saw as the practical issues, rather than the technical issues. We concentrated on disclosure. You may say disclosure is a technical term. The way that people receive information is crucial if you are going to have especially an unlimited choice system work very well.

We looked at some of the anomalies initially in the proposed disclosure regime. Funds are classified as certain sorts of funds—employer sponsored or whatever—and the disclosure regime is slightly different if they are excluded funds, RSAs or whatever. Our conclusion was that the only way this was going to work was by having one simple disclosure regime. We called on the government to bite the bullet and give people the information in a readily available document which we entitled ‘The super choice system and you’.

In our paper we said it could be a 20-page booklet similar to the *Tax Pack* that would be freely available, say, from newsagents. That booklet would form the basis of explaining to people all the generic information they needed to know about superannuation and how the choice system works for both employers and employees and, more importantly, what their rights are under choice. We saw that as one way to solve the communication issue rather than an advertising campaign which may have a short life. Picking up on some of the things that were said before, some of the other superannuation campaigns have been forgotten very quickly. So it would be a document that would always be available and able to be updated.

I should point out that there is a challenge there because there is no such thing as a generic superannuation fund. A superannuation fund is simply a set of rules usually defined under the trust deed. Provided you meet certain requirements, you get certain tax benefits. People tend to meet the requirements to get the tax benefits. Super funds can pay benefit at age 110 if they want to but they tend to pay them at 65 because most people want that. In consultation with the industry a sensible generic document could be produced.

That has the added benefit of also simplifying the key features regime. A fund would only have to disclose where their conditions were different or more or less flexible, if you like, from the generic model—that is, the features applicable to their fund, such as fees, earnings, the backers of the fund, the trustee and details about the investment options. We

also added a third document—an optional document for people who are investing moneys into superannuation in addition to the SGC. That was the disclosure side of our submission.

I will give you an example of one area where we think the proposed regime based on the ISC's paper falls down. They intimate that there are situations where an employee has no choice—for instance, under a certified agreement. I put it to the committee that if you are involved in a certified agreement negotiation as an employee you do have a choice. It is not whatever fund the employer wants to put in the certified agreement. Without any pre-disclosure or any requirements in those circumstances to have any disclosure, you could have employees not having proper choice under the certified agreement and you could have unscrupulous employers using that sort of arrangement to get employees into certain superannuation arrangements. From my background, I do remember the days when we did have cherrypicker funds and funds that were set up for the benefit of employers and not employees.

Senator CONROY—Some very prominent ministers used to do that.

Mr Thomas—It is not widespread, but we should not kid ourselves that it is not going to happen. I think the disclosure regime is simple for all funds, even excluded funds. It is really a matter of typing up a two-page document about the fund. Remember that the local shop in many cases has an excluded fund—which has less than five members—and they offer for their employees to contribute to that fund because that is the fund that their accountant set up. That may not be the right thing because of the nature of that fund and that fund's investments. We have to make sure the disclosure regime protects everybody.

The next issue we focused on is—and I will describe it in a different way to the paper: the choice regime does not exist in a vacuum; it exists with things like life insurance arrangements and other superannuations over and above the SGC. We see some holes in the way the system may operate with regard to any employer subsidy. By that I mean that, in many cases, employers contribute more to superannuation. We looked at a category called employer subsidised superannuation. Employees have no rights to understand what the nature of that subsidy is, which fund it is going to and, indeed, how long it is going to continue.

The disclosure regime falls on the fund level but not so much on the employer level. There could be cases of negative subsidies where an employer benefits from operating in a scheme. The employer may be providing services to that fund, may be the investment manager or may have some other arrangement with the fund. That is a negative subsidy. We think there should be a mechanism under law where employers should disclose that, so there is a positive and negative side of it, and the nature of that subsidy or negative subsidy.

The third point we made related to policy committees and the fact that some of the legislation in policy committees is irrelevant under a choice regime where a fund by fund policy committee regime does not make a lot of sense. It should be maybe an employer choice committee for certain large employers. It may make a little more sense.

The last thing we looked at was the default fund regime. We think that a default fund is a special kind of fund. It is a fund that people choose when they are not choosing, if you like. Because of that, it needs special features. Firstly, it should be easy to get out of. It

should have portability. It should have a free look, even if people have not made a choice. When people know they have been put into something, they tend to react even after. You say, 'They haven't made a choice. They're not interested.', but once they are in a fund and they receive some information, they may want to get out of that fund.

Thirdly, the investment option under a default fund may have some special features and there may be special standards regarding fees, et cetera, in default funds. So we saw that the current legislation which envisages the fund that you previously contributed to as the default fund does not make sense, because we think the default fund should be more than that; the employer should make a nomination of a sensible default fund for all employees.

CHAIR—Any particular features?

Mr Thomas—The features we think make sense are: a free look period, similar to life insurance contracts so you can get out of it; compulsory portability, so that if you are in it beyond 14 days and you want to transfer your moneys that have accumulated, you should be able to transfer your moneys out of the fund. In fact, the way the legislation is framed, the default fund is the fund that you previously contributed to. In many cases, that is the employer sponsored fund. Many employer sponsored funds do not allow you to transfer moneys until you leave that employer, so you may have, through no fault of your own apart from not having the time to make the choice, moneys stuck in a particular fund and you would have to leave your employer to have the right to transfer those moneys.

The other types of standards could be relating to fees and could be relating to sensible investment options based on age. So you could have a situation where, if an employee does not make a choice within a certain time, then they are placed into what the trustees regard as a sensible investment decision for their age—for example, a young person may go to a growth orientated fund.

Senator HOGG—Does that assume that each default fund should have a range of investment options? Because that might not necessarily be the case.

Mr Thomas—What I am describing is what I think is the ideal default fund.

Senator HOGG—I understand. My question is: should that default fund have a range of investment options?

Mr Thomas—In order of preference—

Senator HOGG—Low risk, high risk and medium risk.

Mr Thomas—In order of preference, ability to get out of it should be mandatory, portability should be mandatory. It is nice to have, but I think the ideal default fund should have investment flexibility based on age—investment options based on their age. For instance, younger people would be placed into a growth oriented fund; older people in the default fund would be placed into a cash based fund.

CHAIR—So you would have two default funds at least?

Mr Thomas—There would be one default fund, but the investment flexibility would be based on age. So it would be investment flexibility within the one default fund.

Senator CONROY—I am in agreement with much of what has been said, so I have not got any questions.

CHAIR—I am quite attracted to putting something in the report about the desirable features of a default fund. I think that has a lot to commend it. What is your view about the key feature statement having some health warnings about what people should not do—for example, be wary before you change from one fund to another because you may lose some death cover or disability cover? It is similar to a bit of a health warning on cigarettes. On the other hand, we have to be careful that it is not too negative. Would you like to comment on that?

Mr Thomas—I think that health warnings are part of the education process. They should not be too negative—I agree with that comment. In our proposed system, the main health warnings would be in the government funded document, ‘The super choice system’. The generic system document would say, ‘Here are the main things you should do in order to get a good retirement benefit.’ That should include things like, ‘Before you make a choice, think about the ramifications for your life insurance cover. Look into the key features statement of each document to find out whether they offer life insurance cover or not.’ To use that as an example, the difficulty of putting that into a KFS is that there are some funds that provide life insurance and some that do not.

I think that most of the health warnings about being stuck in a low interest paying bank account type product for, say, 40 or 50 years investment, should be in the generic document. All documents should refer to each other, so that the person reads one set of generic warnings; not that the person under the unlimited choice model gets a lot of different documents or under the four choice model goes through four and reads the thing four times, but that they read probably more information in an industry-wide document.

CHAIR—I refer to your statement about a document similar to *Tax Pack*—am I correct in saying that? I remind you that when *Tax Pack* first came out, taxpayers in their thousands flocked to accountants because they became aware for the first time of their limited knowledge of tax. At the same time, the amount of employee work-related deductions went up. Would you like to comment on the analogy?

Mr Thomas—The analogy is a very broad one. All I am saying is that where there is a complex range of decisions to be made—and you could argue whether tax is a decision; I think there are decisions to be made around tax—the information is useful. *Tax Pack* fulfils a certain function. Some of the documents produced by the Department of Social Security that describe benefits available to, say, people who are near retirement—the age pension and so on—provide a lot of assistance. The FIS service, for example, provides an even greater level of assistance to people. I think that in a compulsory system it is useful that the government provides some generic information. So it is a very broad analogy, but our view is that one generically produced document is going to do more for education than an advertising campaign, or relying on the industry to do that job.

There is another point I would like to comment on. Part of my job is talking to a lot of retirees and people about to invest at investment seminars over the last few years, and I think that some of the people commenting on choice underestimate the ability of people to make sensible choices about investment. I am quite amazed at the sophistication of people—retirees from all walks of life—in making decisions about their investments. I think that once the education campaigns start from the industry—because the large and small fund managers have a vested interest in educating people, it is a new regime or a new paradigm of superannuation—people will make sensible choices. I am quite positive that, especially once an individual's balance reaches a certain level, people will make sensible choices. There will be a plethora of information out there telling them about their rights to make choice, promoting different funds—lots of marketing information hitting them in the face. Again, we think that one sensible generic document will help as the essential reference point to put that all together.

Senator CONROY—The people you would be meeting with and discussing with would all have made a voluntary choice some years ago and have therefore spent many years investigating and keeping on top of their voluntary choice. What we are dealing with is compulsion and the fact that people have been put into superannuation by the government's decision. Therefore, while I take your point that you are surprised about the way people talk about the impact, you are dealing with one particular segment of the market.

Mr Thomas—I agree. My analogy was with retirees from all walks of life. I agree in a compulsory system there are many young people who are not interested in superannuation at all, but that is in the current environment. With the education, promotion, marketing, et cetera, that people are going to see over the next few years and the average contribution into superannuation when the SGC goes up to nine per cent being about \$3,000 or \$4,000 for the personal average weekly earnings, plus an increasing sophistication in Australians towards their finances—for instance, our individual share ownership is higher than the US—I think that ups the ante. If you put all that together, I think people will make sensible choices to a greater extent than many commentators have believed to date.

CHAIR—I refer to a problem that a previous witness alluded to and that was the difficulties a number of people ran into in the United Kingdom in the mid 1980s when choice was exercised. The witness indicated that one of the problems there was that the government was seen to encourage people to make choices, to make decisions to change. Would you like to comment on that? Do you think that in Australia today we are likely to see a repetition of that sort of problem but on a reduced scale?

Mr Thomas—I think the problem in the UK was based on overzealous sales people promoting their products. It was an entirely different context that we have today. If you look at the way superannuation has developed over the last 10 years in terms of product design, most products represent reasonable value. Fees have dropped substantially. Here I am referring to individual superannuation where in the past there were a number of products with very high commissions and very high fees. The chances of a UK situation happening here to that extent is very small. In a situation of free choice the only way to protect people is with good education but also legislation that we are recommending, that people have consistent information, good disclosure—things like that. I think the chances of UK pension fund situation occurring here is very small.

Senator HOGG—If you turn the television on any night of the week you will see exposes of so-called salesmen right across this nation in a whole range of issues. If you have a system that encourages the payment of commission, then I think you run the risk that Senator Watson has alluded to. It is quite open. Therefore, now that we have a compulsory scheme, a compulsory choice, should we somehow write out those people who earn their living by commission?

Mr Thomas—I think there is a place for some commission and people get value added in many instances.

Senator HOGG—Should that be on the KFS though?

Mr Thomas—The KFS disclosure would disclose any commission. The adviser in most circumstances would have to disclose any commission they are receiving. Let me put it this way: if somebody is very confused about superannuation and they go to an adviser who charges them some commission out of their small superannuation payment, that may be money well spent. I think commission per se is not a bad thing, but people manipulating the system to their own ends is definitely a bad thing. I think you control that by good disclosure, that people understand what the commission is and it is very easy to compare products.

Senator HOGG—Does that disclosure need also to expose any relationship there may exist between the employer and the person who is selling the product?

Mr Thomas—That is actually part of our submission. That was the part I referred to about any employer subsidy both positive and negative should be disclosed. The way we see the legislation, if it is enacted as it is currently envisaged, is that a negative subsidy or any benefit that an employer derives out of superannuation fund, because there is no onus on the employer to disclose those relationships in detail, may be missed out. We think that is an important part of the system.

Senator HOGG—Before you mentioned that there was a threshold by which once people have reached they then took up a greater interest in their superannuation. Of that I have no doubt. We have had some figures presented to the committee this week. Do you have an idea yourself of what that figure may be?

Mr Thomas—I wish I did. I do not think anyone knows. This is a new regime. I think about 40 or 50 per cent of annual salary is a figure that a lot of people are mentioning. I think it varies from individual to individual.

Senator HOGG—So there is no hard and fast survey evidence around that you know of.

Mr Thomas—I am not aware of any generally. Superannuation is also a particular beast because it is compulsory, as you mentioned. The level of interest does tend to rise. Typically in some of the marketing surveys we have done the individuals who have more to invest are more interested in investment per se. So if you extrapolate that there would be a level. I think it depends on how successful the education is.

I think that one of the things we should educate people about is that it is actually not the amount of money you have in superannuation. If you are five years away from retirement and you have \$200,000 in superannuation, then over the next five years that is not going to grow too much. If you are starting out in the work force at age 25 and you have 40 years of employment ahead of you, it is probably a bigger issue because if you make sensible decisions now and over the long term it can have a greater impact on your retirement benefit.

I am sure the actuaries have shared with you the figures that by taking different investment strategies in superannuation over time—and this is proven by taking 10-year or 20-year periods at different investment options from cash through to growth type investment options—over the period of someone's working life you can double the retirement benefit available to that person. If the education campaign says that the 20 year old can probably double their benefit by doing some sensible things now and the 60 year old or whatever cannot do that, then we may be able to help educate people with small balances as well.

Senator HOGG—Does that imply that there is a need for two different types of education campaigns—one which gives people an appreciation of the purpose and the general operation of superannuation and the other which focuses on the changes that are mooted in this legislation?

Mr Thomas—I agree with that. That may be a little more confusing to people. I think they need to know where superannuation is at, like a comprehensive document that says this is where compulsory superannuation is at. I think there are two issues: your rights as an employee and your rights as an employer—what the system is all about. Then there is a whole other education challenge on investment options. As has been pointed out here, we have a very complex choice regime.

It is not just a choice of fund. If you look at the funds you are likely to be offered under a choice regime, then each fund has a choice of investment. Most public offer funds and roll-over funds enable you to roll over and transfer quite freely between funds. So people have a fairly complex choice already. There are, I think, 800 or so superannuation funds on the market, maybe 2,000 different investment options in the retail superannuation market. Information on what different investment options really mean is vital.

Senator HOGG—From your experience, do you have any idea of the factors that would influence a member of a fund to change from one fund to another? Is it specifically the investment term, the administration fees, the glossy magazine that comes out, the publicity, or some personality that they might identify with trying to tell sell the product? Do you have any consumer awareness evidence?

Mr Thomas—I think you have to split that into employer superannuation where, in many cases, there is no choice but to contribute to the fund that the employer has set up. Perhaps the best market to look at is the rollover market, in that when people leave jobs they can freely, in most cases, roll over to another fund. Once they are in the rollover system, they can roll over from that rollover fund to another super fund freely.

The types of things that people tend to look at are the brand; they like to invest, in many cases, in the brand they trust. They talk to their neighbours; they talk to people who have similar experiences. Some people have financial planners to help them make that decision; some people just talk to their employer when they are leaving about a rollover fund or an option. So I think it is many and varied. There is not one great decision making criterion.

They also respond to advertising if it is at the right time. If people are leaving jobs and there happens to be an advertisement about rollover funds, they will react to that, we have found from the experience of the NRMA. NRMA also runs investment seminars for members of NRMA and they are very popular, so people get information from free seminars such as those run by NRMA. That is one good example.

CHAIR—How often do you run those investment seminars?

Mr Thomas—They vary. They run throughout New South Wales and throughout country areas. I think about 50 seminars or thereabouts were run last year in various areas.

CHAIR—I commend you for that.

Senator HOGG—I was going to let you continue to answer the question. Do you have anything further to say?

Mr Thomas—No, that is fine.

CHAIR—Thank you very much Mr Thomas for an interesting presentation. The committee will adjourn and resume taking evidence at 9.00 a.m.

Committee adjourned at 4.42 p.m.