



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

**Reference: Effects of the ongoing dividend on smaller public sector agencies**

MONDAY, 8 SEPTEMBER 2008

SYDNEY

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**JOINT STATUTORY**  
**COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT**  
**Monday, 8 September 2008**

**Members:** Ms Grierson (*Chair*), Mr Georgiou (*Deputy Chair*), Senators Mark Bishop, Boyce, Bushby, Hogg and Lundy and Mr Baldwin, Mr Bevis, Mr Bradbury, Mr Butler, Ms King, Mr Morrison, Mr Neumann and Mr Robert

**Members in attendance:** Senator Lundy and Ms Grierson

**Terms of reference for the inquiry:**

To inquire into and report on:

The effects of the ongoing efficiency dividend on smaller public sector agencies, including:

- whether the efficiency dividend has a disproportionate impact on smaller agencies, including whether or not smaller agencies are disadvantaged by poorer economies of scale or a relative inability to obtain funding for new policy proposals;
- whether the efficiency dividend is now affecting the capacity of smaller agencies to perform core functions or to innovate;
- what measures small agencies are taking to implement the efficiency dividend, and the effect on their functions, performance and staffing arrangements;
- any impacts of the efficiency dividend on the use by smaller agencies of “section 31” agreements to secure non-appropriation receipts (eg through user charges and cost recovery) —noting that these receipts are not subject to the efficiency dividend;
- how application of the efficiency dividend is affected by factors such as the nature of an agency’s work (for example, cultural, scrutiny, or regulatory functions) or the degree of discretion in the functions performed by smaller agencies; and
- if appropriate, alternatives to an across-the-board efficiency dividend to encourage efficiency in the Commonwealth public sector, including consideration of whether certain agencies should be exempted from the efficiency dividend, or whether the rate of the dividend should vary according to agency size or function.

For the purposes of its inquiry the Committee defines “smaller agencies” as those with an operational budget (that is to say, departmental as distinct from administrative appropriations) of \$150 million per annum or less.

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**Committee met at 9.27 am**

**CHAIR (Ms Grierson)**—Welcome to today’s hearing. We are missing some committee members. At this stage Senator Lundy and I will begin the proceedings and, hopefully, Senator Feeney will arrive. We can take evidence but cannot accept the transcript as formal evidence until we have a quorum, but that can be done at a formal meeting later. Parliamentary privilege will not apply until we have Senator Feeney here with us.

This is the third public hearing of the committee’s inquiry into the effect of the efficiency dividend on small agencies. Today we will hear from some of the Commonwealth agencies based in Sydney such as the Human Rights and Equal Opportunity Commission, the Australian Law Reform Commission and the Australian Communications and Media Authority. These agencies fulfil important functions but have stated that they are showing signs of what they call ‘financial distress’. This includes offering lower wages to staff or, in their words, ‘cutting services’.

The committee will also speak to the Federal Court, the Federal Magistrates Court and the Administrative Appeals Tribunal. Interestingly, a large number of the Commonwealth’s courts and quasi-judicial bodies have provided submissions to this inquiry. Given their importance to our democracy, the committee is meeting with all of these bodies that provided a submission to us.

Finally, the committee will talk to the Australian National Maritime Museum as, after a constructive conversation with the museum’s counterpart in Canberra last month, we are very interested to hear whether the problems raised by its colleagues also apply to the Maritime Museum. They gave examples of delays in the digitisation of their collections and the scaling down of special exhibitions.

[9.29 am]

**ROBERTS, Ms Susan, Executive Director, Human Rights and Equal Opportunity Commission**

**YESBERG, Mr Darrell, Acting Finance Manager, Human Rights and Equal Opportunity Commission**

**CHAIR**—We welcome representatives from the Human Rights and Equal Opportunity Commission. Do you wish to make a brief opening statement before we proceed to questions?

**Ms Roberts**—By way of summary in terms of the submission that we have put in, the Human Rights and Equal Opportunity Commission is a small agency of currently under 100 staff. We are largely driven by employee expenses. We therefore suffer the difficulties that many small agencies suffer in having a uniformly applied efficiency dividend that does not take into account the individual abilities of each agency to achieve further efficiencies. We must by statute deliver particular services that we do not charge for, including providing a complaint-handling service to people who make complaints of human rights breaches and discrimination under the legislation that we administer, as well as providing a yearly report on the status of the enjoyment or not of human rights of Indigenous people and a report that is required by the Native Title Act. Furthermore, we receive frequent requests from parliamentary committees and other agencies for policy advice and for submissions. We did 26 submissions to parliamentary committees last year. A lot of our work is not at our discretion. We are unable to achieve many more efficiencies in the work that we are doing and therefore we feel the squeeze of having the efficiency dividend applied to us.

**CHAIR**—I can see that we are part of the problem, apparently, in asking that you give your time to us today, but we are very pleased that you did. I will say on behalf of my colleagues that we are very avid users of your materials. Your reports have provided us with totally reliable statistics and data on our communities, and we welcome those very much. In your evidence you did say that employee expenses represent a major financial cost. What proportion of your total budget is for employee costs? Would it be 60 per cent, 80 per cent?

**Mr Yesberg**—I think it is close to 50 per cent of our total expenditure.

**CHAIR**—In your evidence you also said that 20 per cent of your revenue is now coming other sources. Could you explain a little bit more about that for us?

**Ms Roberts**—Yes. Currently we are supplementing the revenue that we receive through a number of ways. I will give you some examples. We have been successful in about the last two or three years with new policy proposals and receiving new money.

**CHAIR**—You have received moneys for new policy proposals even though they would have been less than \$10 million?

**Ms Roberts**—Yes.

**CHAIR**—Would they have been ones that you were requested to do, or were they additional things asked of you by government or were they proposals that you put forward?

**Ms Roberts**—They were proposals that we put forward but in response to an indication that there was a desire on behalf of government to embark upon certain projects. I will give you an example. We received, about two years ago, \$4.4 million over four years to engage in partnership work with Muslim communities. This was part of the government's national action plan relating to Muslim communities. We had previously received some funding from DIAC to do work with those communities as well. We were successful in receiving that funding, though, of course, it is not ongoing funding; it is for a limited period of time.

**CHAIR**—When you take that on, do you also need to take on new staff or do you try to absorb that into the activities of the staff?

**Ms Roberts**—In that particular instance we took on new staff but we have been unable to take those staff on permanently.

**CHAIR**—You take them on as non-ongoing?

**Ms Roberts**—Exactly. That is right.

**CHAIR**—In the 2008-09 budget are there any additional moneys going to you?

**Ms Roberts**—No, there are not; actually it is the opposite issue. One of the other new policy proposals that we were successful in for the 2007-08 year was to receive an additional \$1.8 million per annum to deal with the increase in complaints that we had experienced as a result of the Work Choices reforms. Regrettably, with the winding back of Work Choices at additional estimates, we have had that \$1.8 million withdrawn, even though we still have the increase in complaints. The possible industrial relations reforms that might enable these complainants to go elsewhere are not going to be in place until 2010. So we still have a significant increase in our complaint numbers but we have lost the funding that we need to deal with that increase.

**CHAIR**—It hardly seems fair, does it. Also in your evidence you said that you have increased your complaint handling by six per cent every year over the last four years. That is an amazing efficiency given what you are telling us about Work Choices adding to the burden. What has been cut to allow you to continue to do that, or has anything been cut?

**Ms Roberts**—I think we gave evidence that we did bring on some additional staff with the new money, the \$1.8 million, that we received. We estimate that 50 per cent of that increase in being able to resolve complaints is a result of improvements in process. We have an incredibly dedicated and hard-working complaint-handling unit, who feel very strongly that they should and do provide a world-class best practice complaint-handling unit. Having achieved those efficiencies over the last couple of years, there really is not much more room there to achieve many more without people's work-life balance becoming an issue.

**Senator LUNDY**—I want to follow up a little more with respect to how you get additional funding for new policy proposals or projects. My understanding is that, because those amounts are less than \$10 million, it has to be found within the overarching portfolio anyway. It is not

new money to the whole portfolio. You are actually competing within the broader department for any additional project money.

**Ms Roberts**—Yes. With the two that I have mentioned, despite the fact that they were less than \$10 million, we were able to receive that funding in our own right. It did not have to be found from within the department. Obviously, for a small agency, trying to reach the \$10 million threshold is extremely difficult when your overall appropriation each year is under \$14 million.

**Senator LUNDY**—Have you ever put together a policy proposal for over \$10 million?

**Ms Roberts**—No, we have not.

**Senator LUNDY**—It is not really something that would apply to you in that sense then?

**Ms Roberts**—Unless we went in with a cross-portfolio or cross-departmental type policy proposal.

**CHAIR**—I am very interested in that. You tend to deal with big issues that are cross-portfolio, that have impacts across every social services type or socially oriented, building society type portfolios. Have you ever put any proposals in as cross-agencies?

**Ms Roberts**—There may be one in relation to Indigenous issues where we may have gone in with the relevant department. I cannot recall though whether that was over \$10 million and what stage that actually got to in the process. It was not successful.

**CHAIR**—Has the Northern Territory intervention put more pressure on you for complaints or do people go elsewhere?

**Ms Roberts**—It has not put pressure on us for complaints but, in terms of the workload of the social justice commissioner and his units, it has put considerable workload on them. As you can imagine, they had their work plan for the year scoped out. As I said, they are required by statute to produce two reports every year. The intervention occurring has raised a whole range of policy issues and also the need to focus on that emerging issue, which has put the commissioner and that unit under significant pressure.

**Senator LUNDY**—You mentioned in your opening statement your capacity to charge fees and raise revenues—and I know you have some material about that in your submission—but can you just elaborate on the limits around that and the statutory obligations you have to provide free services?

**Ms Roberts**—First of all, the complaint-handling service is free of charge.

**Senator LUNDY**—That is the one experiencing the growth.

**Ms Roberts**—That is right. There is absolutely no basis on which we can or would want to charge for that. Some services that we have been able to charge for in the past have been—we have considerable technical expertise in the organisation not just in complaint handling but also in other areas: our legal services and our education training. We have been able, when requested

by other agencies or overseas national human rights institutions, to charge on a fee-for-service basis but it does not bring in a great deal of revenue. That is generally cost recovery.

**Senator LUNDY**—Can you see any scope for improving external revenue sources in the future as a way to offset costs or not?

**Ms Roberts**—I would not imagine that we would be able to do that to the degree or the amount that we would require to assist us in our present budgetary situation.

**Senator LUNDY**—You talked about a long-term squeeze in finances. Can you make some comment about the application of the 1.25 per cent efficiency dividend over a very long period of time and how that was managed within your budget?

**Mr Yesberg**—The 1.25 per cent, as you know, is applied across the four out years as well as the current year.

**Senator LUNDY**—Yes.

**Mr Yesberg**—That is not applied to our additional revenue, the section 31 revenue; however, that is a very minor part of our budget. As you can see from our budget statements, that represents approximately \$3½ million—that is our estimate each year. Our primary revenue is the budget appropriation, which is, for the current year, \$13½ million. Once you apply the 1.25 per cent efficiency dividend to your primary revenue source, being the budget appropriation, that is constantly eroding that primary revenue source, and that is where the price squeeze comes from.

**Senator LUNDY**—Right. It is in direct reference to that that I am going—1.25 per cent.

**Mr Yesberg**—It is there each year to the bulk of our revenue.

**Senator LUNDY**—In dollar terms, what does 1.25 per cent take out of \$13.5 million, off the top of your head?

**Mr Yesberg**—Off the top of my head—

**Senator LUNDY**—My maths is terrible.

**Mr Yesberg**—I do not actually have my calculator in front of me, but if I can just have a look at the—

**CHAIR**—Do you remember your total appropriation?

**Mr Yesberg**—The total appropriation for 2008-09 is \$13.55 million. You can see it in the out years—it is a cumulative effect which includes the wage cost index that actually allows our appropriation to increase with the reduction as well; so it is a cumulative effect of those two things. You can see that our primary revenue for the following year only increases to \$13.6 million.

**Senator LUNDY**—So it takes into account the salary increases et cetera but is then offset by the cumulative effect of the 1.25 per cent on top of that.

**Mr Yesberg**—That is correct, yes. The Department of Finance and Deregulation actually provide us with the wage cost index parameters each year, and they can vary; they can go up and down depending upon what happens with the wage costs.

**Senator LUNDY**—What is the formula that they use? Is it known or is it a mystery?

**Mr Yesberg**—There is a formula within the spreadsheet that they provide us with. You apply your wage cost index, so you essentially get, for want of a better term, your CPI increase to your appropriation, and then you remove from that the 1.25 per cent.

**Senator LUNDY**—After the procedure.

**Mr Yesberg**—After; that is right.

**Senator LUNDY**—Looking at all of that, what is the percentage representation of contraction in real terms of your budget each year?

**Mr Yesberg**—In real terms you would need to apply a net present value formula to that to bring it back to real terms, which would be a bit difficult.

**Senator LUNDY**—That is fine. I am trying to get a picture of the real impact of the application of the CPI increase for salary growth, and then how the efficiency dividend is applied on top of that.

**Mr Yesberg**—I guess in real terms our appropriation revenue is not really keeping up with inflation when we apply salary increases equal to basic inflation.

**Senator LUNDY**—In terms of managing the squeeze, what are the sorts of decisions that you have had to take over the years, and particularly confronting you now with the application of the two per cent on top of the 1.25 per cent?

**Ms Roberts**—I guess the measures we have had to take in the 2008-09 year have been compounded by the fact that we have lost the \$1.8 million ongoing funding. Our appropriation for this year is about 12.5 per cent less than our appropriation for last year. That has put significant pressure on the organisation.

**Senator LUNDY**—Is that because you got a proportion of the \$1.8 million in the last financial year?

**Ms Roberts**—Last financial year was our first year of receiving the total \$1.8 million.

**CHAIR**—Did you sign people onto contracts and were they longer than 12 months?

**Ms Roberts**—Yes. We had some contract staff on for 12 months and we have had some others who were ongoing.

**CHAIR**—You thought that this money may have lasted but you would not contract for more than 12 months until you saw the next lot of money allocated.

**Ms Roberts**—Last year this money was not for four years; the money came in as ongoing funding. We did not think we were going to lose it in four years, let alone within one year. We had increased complaint handling numbers. We have lost the money. The president of the commission, as CEO, decided that we could not let the complaint handling unit of the organisation take the full hit of losing that \$1.8 million. The impact that it would have had upon our complaint handling service provision and the backlog that would have resulted from that would have been incredibly disadvantageous to the most disadvantaged in the community who come to us with their complaints. So it was decided that the way in which we would deal with that decrease—and, of course, the increase in the efficiency dividend hit us at the same time—would be to cut every unit budget across the organisation by 14.5 per cent. Complaint handling, all the policy units, the president's budget, the legal budget—each unit budget was cut. That obviously means that we are struggling to maintain the level of complaint handling in terms of the allocation time of complaints once they come in, but we are able to do it in a far better way than we would have if the money had been taken out of the complaints unit. What it does mean though is that every unit in the organisation is now under that budgetary pressure.

**Senator LUNDY**—Have you not continued with any contracts or reduced your number of staff?

**Ms Roberts**—Yes, we have.

**Senator LUNDY**—By how many?

**Ms Roberts**—I may need to check, but we predicted that it would be by a total of 14 across the organisation—and, of course, we are at the beginning of the financial year. We had 114 staff in 2007-08. We estimate that we will be down to 99 later this financial year.

**Senator LUNDY**—Are they FTEs, full-time equivalents?

**Ms Roberts**—Yes.

**Senator LUNDY**—Have your salary levels always been below average, as you outlined in your submission?

**Ms Roberts**—Pretty much so, but they have fallen increasingly below average, I would say, in the last five or six years. There is a significant gap between what we offer at the commission in our various bandwidths and what is offered in other departments, particularly the larger departments, in Canberra. That creates a real issue for us in terms of attracting staff.

**CHAIR**—What is the gender ratio?

**Ms Roberts**—The gender ratio is 71 per cent women in the organisation.

**CHAIR**—I repeat that, when salaries go down, women will still take them but men will walk away in their droves.

**Ms Roberts**—We were actually cited by the CPSU last week, I think, or the week before as being an example of the gender pay gap.

**Senator LUNDY**—Would you attribute those lower than average salary levels to part of the ongoing application of the long-term 1.25 per cent, but also to any specific effect of the application of two per cent on salary levels?

**Ms Roberts**—I think the effect, as Mr Yesberg pointed out, of the—

**Mr Yesberg**—In regard to the additional two per cent in our last additional estimates reduction of appropriation, in addition to the funding that Susan has spoken about for the complaint-handling process, the effect of the additional two per cent efficiency dividend in the out-years was approximately an extra \$275,000 to \$280,000 removed from our budget. As Susan said before, that has to be spread across the budgetary constraints of each unit. I am guessing that salaries would be part of that.

**Ms Roberts**—Up until receiving the new money I mentioned before, which enabled us to do the projects with the Muslim communities, that was the first new money we had received in 10 years. With the impact of the efficiency dividend and, as Mr Yesberg pointed out, the increase in our appropriations not matching inflation, it has just been impossible for our salaries to grow in accordance with the rest of the Public Service market.

**Senator LUNDY**—You cannot use that project money for anything other than the project.

**Ms Roberts**—We certainly cannot.

**Senator LUNDY**—It cannot help your overall situation, can it?

**Ms Roberts**—No, that is right.

**CHAIR**—With regard to the salary situation and the impact it obviously has on staff, what are your retention rates like?

**Ms Roberts**—I would need to take the specific figures on notice.

**CHAIR**—Give us some view of that if you can in evidence that you submit later on.

**Ms Roberts**—Certainly.

**CHAIR**—In an organisation like yours, I think people work there because they are committed, more than the fact that they are looking at career opportunities or salary increases.

**Ms Roberts**—That is right.

**CHAIR**—So I assume that yours may be quite stable.

**Ms Roberts**—In general terms we are actually quite a young organisation. One-third of our staff are complaints-handling staff, for instance, so the APS5 and APS6 levels are where the majority of our staff are, and they tend to stay for up to three years. Outside of those instances, our more senior staff—our EL1 and EL2 staff—stay for considerably longer than that.

**CHAIR**—You said your other revenues are now 20 per cent, so you are cost recovering for some areas. Are there any areas that you would think could be possibilities for fee charges? I understand complaints are a statutory responsibility, but are there any other ways that you identify that are going to make a profit, not just use up your resources, that could recover other revenues for you?

**Ms Roberts**—Given the nature of the work that we do, no. In relation to our training, we have an international project unit that has a large ongoing technical assistance program with China on human rights. We receive funding from AusAID to provide that, but that is what the AusAID funding is used for. We are unable to use our domestic budget to do that work.

**CHAIR**—The 1.25 per cent has been going on for so long and it is set on the baseline when it was introduced, but there must be ways that the baseline gets varied over time. Are there ways to vary the baseline or are you still working on that old baseline? Have you gained other things like the AusAID money? Are there ways that agencies find to keep pushing up that baseline?

**Mr Yesberg**—The baseline you talk about does get varied with the wage cost index, which is a set of parameters provided to us by the Department of Finance and Deregulation during budget each year. That is what I was talking to Senator Lundy about earlier. The wage cost index actually helps to increase your baseline, then the efficiency dividend is applied to that.

**CHAIR**—But the only way you can make any money out of that is if you reduce the number of staff. You still have to pay them at the new indexed level.

**Mr Yesberg**—That is correct. One other component of what Ms Roberts was speaking about before is that the AusAID funding does not represent part of that baseline, it represents part of our separate revenue.

**CHAIR**—It sits apart.

**Mr Yesberg**—That is correct. So it does not help to increase our baseline and is not subject to the wage cost index.

**CHAIR**—You were talking before about the six per cent efficiency savings on complaints, with increasing complaints every year. I assume staff get more experienced so that you have some gains. Does that illustrate the case for having an efficiency dividend?

**Ms Roberts**—I am sure that for each organisation it is sometimes good to look at yourself in the mirror a bit and see where you can be more efficient. I think it is the uniform application of it and the effect that it has in a small agency with a small appropriation. I do not think that you are ever able to achieve the level of efficiency savings that would match the dividend.

**CHAIR**—So you would think its life has run a course that takes it past efficiency and into cutting services?

**Ms Roberts**—I think there is a great risk of that, yes.

**CHAIR**—Have you discussed what services you might have to cut to live within that budget?

**Ms Roberts**—I do not think it would necessarily be a case of us ever cutting a service, in that we take very seriously our mandate to provide a service to the Australian community. As to whether we can do as many visits to regional areas or the way in which we use the limited pot of money, those are certainly ways in which services can be compromised, I suppose.

**CHAIR**—Is yours a centralised service and you send people out when needed, or is there any outsourced placement?

**Ms Roberts**—No, we are solely based in Sydney.

**CHAIR**—Are travel costs much of your budget, or do you pass that on to the people who need your services?

**Mr Yesberg**—The travel costs probably represent a significant proportion of our supplier expenditure. That would probably be, just off the top of my head, about 10 to 15 per cent purely for rural visits. The complaint-handling service will sometimes go and conciliate complaints in other states.

**Ms Roberts**—When that is done, it is done in a very cost-effective way, so you would be going to a regional area to conduct, perhaps, a conciliation and, at the same time, visiting the local women's law centre or community legal centre, trying to get the best—

**CHAIR**—Being very efficient with your time.

**Ms Roberts**—Yes, exactly—trying to get the best use of the trip that can be made.

**CHAIR**—So should the baseline be reset? How would you recommend doing that?

**Mr Yesberg**—I guess potentially, looking at our baseline having been set some considerable time ago, the relevance of that baseline could be questioned now in view of the cumulative effects of the wage cost rises in conjunction with the reduction from the efficiency dividend, including the recent additional efficiency dividend from the last budget. It is possible that it could be timed to relook at baselines to see if they are still, as you were talking about, relevant in real terms anymore.

**CHAIR**—Are there alternatives? Would there be parts of your budget that you would want to see exempt from efficiency dividends besides salary impacts?

**Ms Roberts**—Yes, I think that, in those areas where it is a statutorily required service that we are providing, there is only so much that can be trimmed off that or demanded of the people who are providing it.

**CHAIR**—And you cannot control demand.

**Ms Roberts**—Not at all.

**CHAIR**—So one suggestion or option would be to have complaint resolution exempt. That is the area you are finding all the efficiencies in, so I guess that is a little bit counterproductive.

**Ms Roberts**—There are certainly efficiencies across the rest of the organisation in terms of how we do reports, how we do our policy work or the best way in which to intervene in court proceedings that raise human rights issues. It is the complaint-handling efficiencies that are the easiest to quantify given the very nature of the statistics that you collect.

**CHAIR**—How do you quantify the outcomes from complaint resolution?

**Ms Roberts**—There are KPIs in terms of the preferred timeframe in which to be resolving a complaint from when it is accepted or arrives at the organisation. So time is a major factor in determining efficiency. Also, we receive very high customer satisfaction ratings from both complainants and respondents in the work that we do.

**CHAIR**—Finally, from me, are there areas that you cannot do? Are there new initiatives or policy approaches that you would like to do that you cannot do, and are you investing enough in your staff et cetera—those sorts of enrichment activities, new directions or new initiatives that would improve and enhance the work you do and certainly develop staff's potential? What is happening in those two areas?

**Ms Roberts**—In terms of things that we would like to do, I think it would be an endless list.

**CHAIR**—We had better get going on the list. I always like long lists myself.

**Ms Roberts**—The nature of the work that we do is that almost everywhere that you look you see an area in which you would love to be able to do an education program, a research project or a survey, just given the gamut of issues that come within our mandate. So yes; we need to prioritise and select the projects that we are able to do within the limited revenue that we have, and that does mean that there is work that we are simply unable to do even though there may be a significant need for that work to be done in the community.

In terms of staff development, certainly in the complaint-handling unit they run an absolutely topnotch program developing and supporting their staff's skills. In the rest of the organisation, it is an area I think that we have improved in in the last couple of years and in which we already have initiatives to work on over this current financial year. But, again, there is a limited pot of money for bringing in an external consultant who might be an expert in evaluation techniques, for instance. At the end of the day, the money can only go so far. We try to think of creative ways of doing that, but it can be limiting in terms of providing those opportunities.

**CHAIR**—This is a bit of dorothy dixer, but what would you say the cost is to the Australian community if your agency is continuously restricted from what it can do or what it could do?

**Ms Roberts**—I think the cost is that people are unable to be truly aware of their rights—not only what they are able to complain about but also their rights and responsibilities in terms of being citizens. While with the budget that we have we have an excellent reach in the community, I think it could be considerably better, particularly with young people. There is a lot of work that could be done there. But, again, it is an area of work—

**CHAIR**—You cannot go and drum up extra work if you cannot respond to it. You would build unrealistic expectations.

**Ms Roberts**—Precisely, and areas like that require—particularly if we take youth as an example—very good technology, very good innovative ways of connecting with them and reaching them. That all requires money.

**CHAIR**—Have you been able to invest in new technologies?

**Ms Roberts**—We have, to the degree that our budget permits. Our Sex Discrimination Commissioner, Liz Broderick, on her recent listening tour around Australia used a very interactive web based diary and blog which enabled people to follow her tour around Australia but also log on and participate in discussions about issues that she would post. There are other ways. E-forums and internet discussions are ways that can be, despite the initial set-up costs, quite cost effective to reach the geographic area that we have to reach. But, at the same time, you always have those people who do not have access to or do not know how to use that sort of technology.

**CHAIR**—Yes. They are still the majority, aren't they?

**Ms Roberts**—That is right.

**CHAIR**—Thank you very much. Senator Lundy, do you have any questions?

**Senator LUNDY**—No, I am fine.

**CHAIR**—We have gone a little bit over but we started late, so thank you very much for your evidence today. We have left one answer on notice.

**Ms Roberts**—About staff retention.

**CHAIR**—Yes. Thank you very much.

[10.09 am]

**DESAI, Mrs Bharti, Chief Financial Officer, Equal Opportunity for Women in the Workplace Agency**

**McPHEE, Ms Anna, Director, Equal Opportunity for Women in the Workplace Agency**

**CHAIR**—Welcome. I will just repeat that, because our committee is a little bit light on today, there is no privilege attached to submissions or our comments today and your transcripts will be formally received by the full committee. Do you wish to make a brief opening statement before we proceed to questions?

**Ms McPhee**—Thank you for the opportunity for the Equal Opportunity for Women in the Workplace Agency to present to the committee. EOWA is what I would call a microagency. Our total appropriations are under \$3 million—\$2.9 million in 2008-09. We supplement our government appropriations with revenue from external sources. We are an agency that has been in existence since 1986. We are required to promote equal opportunity for women in the workplace. Our clients are business but our stakeholders are women: women who currently work and women and girls who will enter the workforce in the future. We work with over 3,000 organisations annually in a very labour-intensive way, which is direct feedback to organisations. These 3,000 organisations represent 7,000 organisations in the community which employ over one million women. We have 19 permanent employees and a temporary workforce that equates to six full-time equivalents that are with our agency for just over four months.

Our appropriations just in the last 10 years have increased by only seven per cent, yet our costs have increased annually by four per cent. If we had applied the four per cent to our annual appropriations over the last 10 years, we would see a real decline of over 30 per cent of our appropriations. That has a significant impact on our ability to work with our clients, to improve opportunities for women in the workplace broadly and to support the staff that do that work. Thank you.

**CHAIR**—I am sure that Senator Lundy and I would love to think that you would be a sunset organisation and that one day it would all be fixed—

**Ms McPhee**—Yes.

**CHAIR**—and that one day women would have equal opportunity in the workplace and you would just close up and go away, but I do not think either of us think we have reached that point in Australian workplaces yet, so thank you for coming along. Just before we go into some of the more specific questions to your agency, do you work in cooperation with agencies like HREOC, who were here before?

**Ms McPhee**—We work with the Sex Discrimination Commissioner around issues where there is overlap. We work with the Office for Women. We work with the Department of Education, Employment and Workplace Relations and with the Department of Families, Housing, Community Services and Indigenous Affairs on issues that overlap.

**CHAIR**—Do they ever fund any of those joint programs? Are there joint programs or joint services?

**Ms McPhee**—There are no joint programs or joint services. It is more a sharing of knowledge rather than collaboration on programs or projects.

**CHAIR**—Being a microagency, you would need some champions and advocates. Do those other agencies fulfil that role? Who else fulfils that role out in the community?

**Ms McPhee**—Our clients, I think, fulfil that role. There is certainly support amongst business for the agency and the role that it plays in providing awareness and assistance to employers around these issues. They believe that the agency is important to keep equal opportunity on the agenda. Certainly advocates of our minister, the minister for women, and previous ministers—the minister for industrial relations in previous governments—have been advocates of the agency.

**CHAIR**—Do clients contract with you over a period of time or do they just request your services?

**Ms McPhee**—By ‘clients’ I mean those organisations which are required under the legislation to report to the EOWA—that is, organisations with 100-plus employees.

**CHAIR**—Right. That is a lot of clients.

**Ms McPhee**—Yes. As you say, we are a fair way off from equal opportunity for women in the workplace, so it is important work that we do. We are unable to necessarily capture all organisations with 100-plus employees, and the impact of the efficiency dividend and the real decline in our appropriations limit our ability to reach organisations in business and, therefore, women.

**CHAIR**—I have to be devil’s advocate. If you were under an umbrella of one of those other agencies we talked about, would there be savings in terms of administration or other costs?

**Ms McPhee**—There are unlikely to be savings. Sixty to sixty-five per cent of our appropriations is labour or salary and salary associated costs. That is the nature of the work that we provide. It is very direct to employers—the direct feedback, education and the research that we provide. The other costs are proprietary software which enables us to collect and mine the data, which then enables us to educate organisations. Rent is another significant cost. All those costs would still be required wherever we are.

**CHAIR**—What has your employment trend been?

**Ms McPhee**—Over the period of the agency, the number of permanent ongoing employees has been between 24 to 19 full-time equivalents. As I said, our organisation expands annually with six full-time equivalents for a period of time over the 12 months.

**CHAIR**—Is that some peak collection time for data?

**Ms McPhee**—That is the time of peak assessment of reports and feedback and advice to organisations. The way we manage, with our very small appropriations, is by having a temporary workforce. Obviously the cost to our agency of that temporary workforce is that the training that we invest in those employees walks out the door at the end of the contract. It is a significant investment in training.

**CHAIR**—And there will more likely be six new people next year.

**Ms McPhee**—The intellectual property of those individuals that we have built up over that time and the continuity to employers of having an individual in their organisation that understands their business are important things. We manage the best we can by providing that opportunity—

**CHAIR**—Can someone else do your recruitment? Could your recruitment costs be built into someone else's budget?

**Ms McPhee**—We generally recruit internally. In last year's budget we had to use external agents to recruit, which increases the cost of recruitment. I think recruitment is best placed internally within the agency.

**CHAIR**—Why?

**Ms McPhee**—The work that we do is unique and specialised, and we are best placed to identify appropriate talent and individuals to deliver that service.

**CHAIR**—So you like having the recruitment function within your agency. Do you like the training to be within your agency, or is that something that could also be done externally?

**Ms McPhee**—The training of employees?

**CHAIR**—Yes.

**Ms McPhee**—Again, the work that we provide is unique, and we train internally because we have the knowledge of what is required in assessing reports and the knowledge in relation to equal opportunity specifically in the workplace. It is a unique unit within Australia and certainly within the world. So, yes, it is best placed within our agency.

**Senator LUNDY**—The question I have been asking most witnesses is about the ongoing application of the 1.25 per cent with the additional two per cent. What are the sorts of strategies you have used as a microagency in absorbing that impact over a long period of time?

**Ms McPhee**—Efficiency is obviously important. As a microagency you are required to be efficient in order to manage within those small appropriations. Our efficiencies by savings are about one per cent each year since my leadership of the agency, over the last 4½ years. I will speak from that experience. We have made savings of about one per cent annually. Above that, it is then looking at cuts to the agency in relation to redundancies; investment in IT software—so limiting the investment in relation to the software that enables us to do our work better; looking for new premises which give us savings—

**Senator LUNDY**—So in that one per cent savings it is things like looking at your IT systems, looking at property and accommodation costs and that kind of thing?

**Ms McPhee**—Yes, that is the one per cent. Beyond that, it is cuts to the research that we are able to conduct that would then have informed the community, government and business. It reduces our ability to spend more time with our employers, to educate and to create change in their workplaces. So there are two very important impacts.

**Senator LUNDY**—On the ongoing ability to find the sorts of savings that you describe, can you go into a bit more detail about strategies, particularly in relation to IT but also things like energy costs? I know there is a lot of innovation going on out there to try and meet these savings, and I am just trying to get a bit more detail about how you are doing it.

**Ms McPhee**—There are simple strategies such as making sure that staff, when they leave a room, turn the lights off—it gets down to as basic as that in our agency—ensuring when we moved premises that the building was energy efficient and using energy-efficient appliances within the agency. That is around energy. With other costs, strategies include ensuring that staff are aware of the expenses in the agency and always having, as a KPI for our staff, commercial discipline to ensure that the expenditure of government funding is done with discipline and savings.

**Mrs Desai**—The other disadvantage of a small agency is that we do not have the bulk-buying power—if you buy in larger amounts, you get the discounts—so we are not able to take advantage of those things.

**CHAIR**—Do you buy all your own stationery and all those things or is it centrally procured?

**Ms McPhee**—We procure stationery and other items within the agency. Telephone expenses are through an arrangement with our portfolio department. It was an arrangement with our previous department; we had an MOU.

**Senator LUNDY**—Is it the same with IT?

**Ms McPhee**—Some IT. The provision of IT services, some HR services in relation to payroll, telephone type expenses and some other services is through a memorandum of understanding with our portfolio agency. Through that memorandum, we seek to gain the advantages of economies of scale.

**Senator LUNDY**—Do you?

**Ms McPhee**—By piggybacking their contracts.

**Senator LUNDY**—Right.

**Ms McPhee**—But in the past there have been attempts to have the portfolio departments charge an administration fee for the minor agency to manage those contracts.

**CHAIR**—So there is cost shifting in both directions, is there?

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**Ms McPhee**—Yes.

**Senator LUNDY**—Obviously, looking at some of the corporate services, you can access economies of scale, but are there any examples where you find yourselves locked into costs than which, perhaps, you think you could do better as an agency procuring direct?

**Ms McPhee**—It is certainly a question we have asked often.

**Senator LUNDY**—You mentioned especially proprietary software and things like that, too. There are obvious different options emerging now that might not come with quite the hefty licensing fees that some applications come with.

**Ms McPhee**—Yes. Certainly we have explored that question around IT but, as a microagency, even to have the resources to explore the opportunity of potential savings is difficult.

**Senator LUNDY**—Yes.

**Ms McPhee**—So sometimes it is easier.

**Mrs Desai**—Even going through a tender process and getting the tenders out—

**Senator LUNDY**—That takes a lot of work.

**Mrs Desai**—Yes.

**CHAIR**—Is there an advisory service available for you within the Commonwealth to advise you on IT? Do you get advice on that?

**Senator LUNDY**—It would be via the department.

**Mrs Desai**—Yes, it is via the department.

**CHAIR**—Is it your opinion that the baseline has been eroded, then, even though you can negotiate sometimes with your lead agency? Do you think your baseline funding has been eroded over time? Do you think it has stayed the same? Should it be reset?

**Ms McPhee**—It has eroded in real terms through applying increases.

**CHAIR**—You said an increase of 30 per cent, didn't you?

**Ms McPhee**—We are just looking at the last 10 years. It is a real decline of 31 per cent given that baseline appropriations have only increased by seven per cent just over the last 10 years. The increase would not be that much larger over the last 20-odd years. To reset the baseline, if we were to assume that over, say, just the last 10 years, appropriations had increased by four per cent annually instead of the two-odd per cent by CPI less the efficiency dividend, in 2008-09 we would have over \$100,000 more in government appropriations. If the government were to take on the recommendation of the agency to not have the efficiency dividend applied to agencies

with less than \$1 million of appropriations, and to have appropriations increase by four per cent per year—

**CHAIR**—So one of your recommendations is that you exempt agencies that have a budget of—

**Ms McPhee**—Of less than \$10 million.

**CHAIR**—Less than \$10 million and you just provide them with a four per cent increase. Where does the four per cent come from? What do you want to look at: CPI, wages, index? What do you want to look at in terms of that four per cent?

**Ms McPhee**—Wages, which represents 60 per cent of total appropriations. With regard to small agencies, as you discussed with the previous witnesses, new policy proposals really under \$10 million have to be absorbed by the agencies. The small agencies are very limited in their ability to increase their appropriations. Applying the efficiency dividend sees, for all small agencies, a decline in their real appropriations.

**CHAIR**—So if you are exempt in say the 2009-10 budget at the current rate, you would still find that fairly difficult. You would want your baseline adjusted. Is that right?

**Mrs Desai**—The baseline is adjusted because we have had the additional two per cent efficiency dividend, which has got a compounding impact over the years.

**CHAIR**—It is 1.25 over a period of time.

**Ms McPhee**—Over four years. As I was saying, if we had had our four per cent increase to our appropriations over the last 10 years, we would have roughly around \$3,666,000. If we were to adjust that baseline from next year, or adjust our current baseline of 2.9 by four per cent year on year, we would catch up in 2014-15. An adjustment of the baseline, I think, would be appropriate for our microagencies.

**CHAIR**—In assessing whether the efficiency dividend has compromised your regulatory function, can you fill us in on what the trends are in terms of women's participation in the workforce? Are there changes at the moment? Are there changes by part-time or permanent figures?

**Ms McPhee**—Over the last 20 years, women's workforce participation has increased significantly as men's workforce participation has declined as a proportion of their representation. Much of the increase has been in part-time work, and really it is women who work part time who face more discrimination than women who work full time, but women who work full time are certainly the recipients of discrimination in the workplace. So there needs to be a focus for employers around discrimination on pregnancy and discrimination on family grounds, and how to provide flexible workplace practices. All these issues are important and becoming increasingly so as more women participate in the workplace. Over around 68 per cent of women with children under the age of four are in the workplace. Today the reality is that the majority of women are working and will work.

**CHAIR**—We still see a great deal of attention in the media at times to women working from home without very much in the way of protections and rights. Have you made many inroads into protecting women in those situations?

**Ms McPhee**—Organisations which provide flexible work practices, like working from home, report to EOWA if they have 100-plus employees. Working from home is just a part of it. They might not necessarily work full time from home; it might just be part time. We would talk to organisations about ensuring that there are OH&S inspections of those workplaces to ensure that those women remain connected to the workplace in some way in relation to information and knowledge sharing and to ensure that they have the same access to training and development, which is certainly important for women's advancement within the workplace.

**CHAIR**—What area of your regulatory function do you think has been most compromised by the application of the efficiency dividend?

**Ms McPhee**—The time which we are able to spend per employer to make them aware of the issues that affect women in their workplace. We are required to support organisations across seven employment matters. On average, we would spend about an hour with each organisation annually.

**CHAIR**—You cannot bring about cultural change in an hour really, can you? It is a little bit challenging.

**Ms McPhee**—That is correct. The other aspect is certainly to identify organisations which are compliant under the legislation but we do not necessarily know about.

**CHAIR**—What do you think your capture is of the employers that should be reporting to you?

**Ms McPhee**—We capture around 23 per cent of all businesses, which includes small businesses as well. Obviously small to medium businesses do not fall under the legislation. The organisations which report to us employ just over a million women. Knowing the number of women that are in the workforce, we are missing a fair few workplaces and therefore having limited effect improving many women's lives.

**CHAIR**—Do you prioritise or is it just a matter of the employers that come to you? Do you try to prioritise and target some?

**Ms McPhee**—Yes. That is an activity annually in relation to reaching new organisations, but that activity is limited by our resources. We work annually with those organisations that do report to us.

**CHAIR**—Do you prioritise on risk in terms of possible exploitation of women in the workforce or do you prioritise by industry or—

**Ms McPhee**—We have different strategies across the agency. For organisations, we might prioritise around issue. With businesses, it depends on what is occurring in that organisation's workplace. No business is the same, so we may work with employees across different

employment matters specifically. We provide industry-specific information for specific industry sectors that either have low representation of women but the women are low-wage women, like the manufacturing sector, or sectors that have a high representation of women and low-wage women, like the retail sector, for example.

**CHAIR**—You said that you have reduced your administration costs each year, but we have talked about some of the demands in terms of buying costs and mode of operation. How have you reduced those administration costs each year? Has it been mostly salaries or has it been technology?

**Mrs Desai**—Just efficient ways of doing things—

**CHAIR**—Are people working harder?

**Mrs Desai**—It is just efficient ways of doing things—rather than sending an immediate delivery, we might send something overnight or—

**CHAIR**—So you can do without some things or you find the cheapest options?

**Ms McPhee**—That is right.

**CHAIR**—Like couriers and freight and things like that?

**Ms McPhee**—Everything—and that requires strategic planning and preparation.

**CHAIR**—Are there any other questions?

**Senator LUNDY**—No. I think we have covered it.

**CHAIR**—Thank you very much for presenting today. If there is any additional information you want to put to us, let us know. I think we have covered everything. We will not ask anybody to go back and do homework. There is enough being done out there. Thank you very much.

[10.36 am]

**AMBROSE, Mr Derek, Chief Financial Officer and Executive Manager, Finance and Facilities, Australian Communications and Media Authority**

**CARLOS, Ms Di, General Manager, Corporate Services Division, Australian Communications and Media Authority**

**CHAPMAN, Mr Chris, Chairman, Australian Communications and Media Authority**

**CHEAH, Mr Chris, Member, Australian Communications and Media Authority**

**CHAIR**—Welcome. Thank you very much for being here today. Before we start, Senator Lundy and I apologise that there are only the two of us from the committee here today because one member had a diary scheduling problem, one is ill and two others have electorate commitments. So privilege will not apply to this evidence today, but it will be formally accepted by the full committee and become a formal transcript when we next meet. Do you wish to make a brief opening statement?

**Mr Chapman**—Thank you, Chair and Senator Lundy, for the opportunity to be here before this inquiry. I would like to make just a brief opening statement. Thank you also for the opportunity to provide feedback on what we suspect are the now emerging unintended consequences, certainly for the ACMA, of the ongoing efficiency dividend. The ACMA provided you in July with a submission that sets out our views on a range of matters relating to the efficiency dividend against your terms of reference. In part we did that because the terms of reference themselves actually lay out very well the main issues as we see them—so congratulations to whoever framed them.

Rather than regurgitating them I thought it would be useful to view our submission in terms of perhaps three main themes. The first theme is about efficiency. The ACMA strongly supports well-designed incentives to promote ongoing efficiency improvements for Commonwealth agencies. We have been implementing changes to reduce our costs but also to improve efficiency and service delivery for our stakeholders, and we detail some of the headline initiatives in our submission. But we think we have reached the point where the efficiency dividend has significant deficiencies as a vehicle for achieving that efficiency improvement objective. Indeed, the very essence of the way the ACMA's appropriations are framed is, in my opinion, in play. So we have provided some suggested alternative budget funding mechanisms for your consideration.

The second theme relates to how the efficiency dividend affects an organisation like the ACMA. Every agency probably thinks it has special issues and is a special case. We certainly do. Our submission comments on a range of particular features about the ACMA that may not be immediately obvious but which are affected by the efficiency dividend. While we could usefully return to this in answers to some questions you no doubt have, let me mention the one which is, for me, most stark. On the weekend I dropped into my local corner store for some milk, some Drano and some picture hooks, and reflected on the challenging life these storekeepers have—

and in my experience the ACMA would have to be the most mixed business I have been involved with. It has a great many functions that are neither readily interchangeable nor easily dropped without longer term, less immediately visible consequences. The range of issues we deal with require expertise, judgement and a range of embedded skills and corporate knowledge that create real barriers to the internal moving around of functions.

In preparing these introductory comments on Friday, it struck me that our own internal functional break-up of the organisation is a very helpful document. I have eight copies of that here. Whilst that functional list is an internal document, in a way that mere words cannot it provides an insight into the extraordinary diversity of the ACMA. I thought it would be a very helpful document for you to have if you want to tease out some of that later or use it for your own background when you reflect on the submissions we have made. I am sorry I did not provide it at the time of providing our submissions, because I think it might have better helped flesh out the points we were trying to make at that time.

The third theme running through our submission and the one that I assume you feel equally strong about is that the efficiency dividend is not in practice just about functions and services. It goes to the character and forward capability of an organisation. It is what I call its organisational resilience. In many other cases this may not be as relevant a consideration, but in the ACMA's case a specific reason that we were created was to develop that very capability, that resilience. We will need that resilience in spades over the next five or so years.

We were formed from the merger of the ABA and the ACA to create a converged regulator, in recognition of the fact that the communications and media environment is undergoing unprecedented change and that paradigm shifts are afoot. The idea was to create a regulator that had sufficient scale and capability to anticipate change, to engage proactively with that environment, to build up evidence bases and expertise, to bridge to the future under the burden of existing legislative constructs and, in part, to provide a source of capability and advice to government in what will almost certainly be turbulent times in the time horizons I have nominated.

Under the current efficiency dividend arrangements the ACMA faces an effective real 17 per cent funding cut over the next four years compared with the 2007-08 years. While we will be doing our level best to retain functions and services, a cut of this magnitude not only puts pressure on the range of regulatory functions and services we offer but, maybe more importantly in the longer term, risks hollowing out the very capabilities that the ACMA was set up to develop and nurture and severely curtails our practical ability to transform ourselves into the kind of communications regulator that we consider Australia will need over the coming decade and beyond to optimise the nation's interest, which is our touchstone. We would be happy to take any questions you have.

**CHAIR**—Thank you very much. Do you want to elaborate on those turbulent times ahead—just give a few examples of the pressures the industry is coming under in terms of function and regulation et cetera?

**Mr Chapman**—We were set up as a converged regulator in name, and since then the organisation has been at pains to try to turn itself into a converged regulator organisation in terms of structure, in terms of business planning and in terms of commonality across the

organisation. And that is why I think that functional chart is a little bit of an eye-opener—because it very vividly gives an indication of the complexity in trying to forge some commonality across so many diverse functions. We then set ourselves up as a converged regulator in the sense that we have set out to have inputs to industry and outputs from industry and act as the essential break-up point between the two.

However, there are four principal pieces of our legislation—the broadcasting act, the Radiocommunications Act and two telecommunications acts—which have their own history, background, embedded bias and objectives. If you total up the various objectives that you have out of those four pieces of legislation, you end up with about 15 potentially competing objectives. On that point I might add that we have responsibility for 29 statutes and about 476 legislative instruments. Again, that just underpins the competing objectives that we seek to achieve in what is a continuing balancing act. That balancing act is exacerbated going forward by shifting business models, which have been unlocked by digital and convergence. Virtually all players within the business of broadcasting, telecommunications, radio communications and communications generally are seeing fundamental shifts in their business models, and those shifts are showing no signs of abating.

We are also seeing, I think, the next great land grab in terms of where people are positioning themselves for opportunities in those shifting, emerging business models at a time when they need to continually show to the marketplace that they have potential for growth. As a consequence of that, the contestability in the business, the contestability between sectors of the communications industry one to one, the contestability between communications sectors and the government, and the contestability between players in the communications sector and the regulator are growing. We see that daily. There are many examples where what I call contestability—the desire to gain or take on or press the envelope—is increasing.

We need to be an organisation that is not going to be road kill; we need to be an organisation that stays forever relevant. We will do that if we can transform the organisation from being one that has historically been reactive, perceived as lacking a little bit of backbone in some areas, to one that is—I would never say ahead of the industry because that is a ridiculous notion—sufficiently abreast of it to be able to engage, to communicate and to take informed evidence based decisions that act in the national interest. That is a very long answer to your question.

**CHAIR**—If your relevance is not respected, certainly your influence would be diminished. Is that right?

**Mr Chapman**—It will wane.

**CHAIR**—Part of being relevant is, as you said, constant reform and constant knowledge and engagement with the industry. Is that correct?

**Mr Chapman**—That is exactly right. The ability to stay relevant is determined by the respect that the various stakeholders—the government, the various sectors and the sector generally—have for the regulator. We are hell bent on lifting that degree of respect. One of the things that that involves is a far greater emphasis on far more iterative communication and explanation to those very sectors. So the bar has already been lifted significantly and we think it will continue to be lifted significantly over the next couple of years.

**CHAIR**—Do you think that you have the right people to do that? Are you able to attract people from industry to advise on that? Are you recruiting from within the public service sector or do you need to recruit people who have industry experience?

**Mr Chapman**—We recruit from within the Public Service and we recruit from outside the Public Service. We do not have any discrimination one way or the other. We have been actively recruiting over the last year in particular.

**CHAIR**—Can you provide attractive salaries and conditions of employment?

**Mr Chapman**—We have been successfully recruiting. I would say that we are not unattractive, but we are by no means at the top end. We have to compensate for our inability to pay comparative salaries with more intangible aspects. The opportunity to work within the ACMA, in an organisation that is seen to be transforming in a very intellectually charged circumstance, is intellectually appealing and very professionally rewarding. We set great store by that in trying to round out the benefits of the ACMA to potential employees.

**CHAIR**—But you need diversity, don't you? You need people who are good at policy and you need people who are good in other areas as well.

**Mr Cheah**—Maybe I could chip in with an observation on that, Chair.

**CHAIR**—Yes, certainly.

**Mr Cheah**—I think it is quite a tight labour market when it comes to the kinds of skills we need. We have got quite a few areas of specialist expertise, and some of those are actually quite difficult. For example, spectrum is going to become a major area. It has always been important, but we are entering an era when suddenly there is a lot of pressure coming on to find extra spectrum, particularly for things like broadband, mobile broadband and that kind of thing. So trying to find and attract those kinds of resources can be a bit of work, in fact. We have certainly got some strategies for trying to do that and we do think about workforce planning, obviously, but that is the kind of issue which we need to devote a fair bit of attention to. I think the chairman has already pointed out the breadth of stuff we do, and we do have to try and attract the right kinds of people and the right kinds of talents and skills to be able to deliver on that range of things. One of the strategies we have adopted is to advertise across a range of different markets. That is one thing we have managed to do over the last few years and that has been quite helpful. But it is—

**CHAIR**—Not without its challenges.

**Mr Cheah**—not without its challenges. It is a challenging labour market, and to deliver the things that the government and the community expect of us in terms of quality and service we are going to need to find ways of staying competitive.

**CHAIR**—You are trying to stay relevant, if not ahead, yes. Senator Lundy, you are fairly good on spectrum and all those things; I will go to you.

**Senator LUNDY**—Contestability: I want to follow up this point about the new pressures you are facing as a regulatory organisation. How does that manifest itself in how you apply resources to each area and how critical is it to your statutory function as a regulator?

**Mr Chapman**—I think the principal response is that we are very conscious of the heightened contestability and we are very conscious of the stakes in play between the various sectors, and between the sectors and the government. If we are underdone, undercooked, not sufficiently skilled up, lacking strategic insight or research and analysis, or not sufficiently evidence driven, we will be road kill. So we have allocated considerable resources over the last two years in particular to improving our evidence base in a meta sense. We have placed considerable resources in our market analysis and our research work. We have placed significant resources in our future policy development, and VoIP is a very good example of something that has flown under the radar that we do not believe can continue to fly under the radar, going forward. And we have placed considerable resources into improving our economic research capabilities with the appointment of a principal economist, Rebecca Burdon, and some economic resources and staff to assist. So, out of the budget that we have had, we have sought to very consciously allocate and retain—as opposed to just doing it one year and then backing off the next—and maintain a dedicated resource focus on those sorts of things so that when we go to the marketplace with our view we have evidence.

Children's television standards are an example of that. I am not coming here today to defend that, but we have put that out there with an extraordinarily broad literature review of the health causality or connection between advertising and obesity, and a very impressive, I think, production report on the way in which children's television is conceived, produced and financed and the production costs. We have put out, I think, an unparalleled insight into the effects of advertising on broadcaster revenues. That does not just happen overnight. That would not have happened in an old ABA or ACA forums, and I think it is a very good, living example of our dedication of resources, those that we put to one side, to underpin the sorts of matters that are going to continually come to the fore. That is what is really top of mind for me.

**Senator LUNDY**—With respect to the wide range of functions you have, this is a very comprehensive table and I have to say I have never seen anything like this as far as giving a good understanding of what your organisation does. I think it gives a very clear picture of the diversity of the work of ACMA. As far as the back-end corporate services go, how much capacity do you have to apply the efficiency dividend to those kinds of services as opposed to your policy development, program management and regulatory functions? How has that been done in the past, particularly with the ongoing 1.25 per cent efficiency dividend?

**Mr Chapman**—I think the rubber is hitting the road this year in particular. As you would be more aware than anybody, Senator, the organisation was up and running on 1 July 2005. I came into the organisation in March 2006. My impressions are that when I came to the organisation it had done very impressive work in a short time against a backdrop of not really having a good enough feel as to what the organisation might look like or feel like or smell like. Having gone with the organisational structure that reflects convergence, I think the organisation took a good year to really understand that and come to grips with it. In those first 18 months we had tumultuous staff turnover, which is not unassociated with these sorts of major mergers and the various implications that go with them. It is only in the last six months, to be very honest, that I think the organisation has had some breathing capacity to plan—impressively, I hope—for the

future. And I say that because the legislative agenda and the implications for us in 2007 were intense—so intense that the organisation was not at breaking point but overheating.

In our 2008-09 financial year—the one we have just entered—we have been at pains to try and retain policy expertise. We have been at pains, as I mentioned in answering your earlier question, to maintain the initiatives with the evidence based approach that we are focusing on. I have seen so many organisations in my professional career where you have a good idea, you back it for a year, the heat comes on—and, of course, not only does it undo the good work you have done but it is actually far more counterproductive than that because cynicism builds up in the organisation. So we have tried to maintain the new initiatives because we think in the longer term they are going to apply. And so the net of all that, Senator, is that the corporate services bear the pain to a much greater degree than anywhere else in the organisation of the reduction in discretionary spending. They are forced to the maximum to find efficiencies and to eke out new delivery systems, both externally and internally. That has certainly been the case with us.

We have not sought to let quality staff go—the technicians and the policy makers. We have sought to take all the discretionary spending that we have to to make up the \$4.4 million difference in budget between this year and last year, and corporate services have been wearing a disproportionate share of that expenditure. You get away with that for a while, but there is a ‘but’, and the ‘but’ is that we are living this transformation that I spoke about in the organisation to try to keep pace with where we think we need to go and where government and stakeholder expectations of us will be. You continually rob Peter to pay Paul. And you continually start to bleed funds from transformation, which is a reinvestment in your future. So the things that we would like to do in a full transformation, a full culture change program, we are having to do in the most parsimonious way. That is a great shame for the long term.

**Senator LUNDY**—That inability to invest in transforming technologies: can you give us some examples of that within your realm of corporate services, whether it is IT support services, your own telecommunications requirements, web based services or those kinds of things?

**Mr Chapman**—Certainly. I would like to talk in particular about Project Spectrum, which is touched on in our submission. Project Spectrum is an organisation-changing program. It will be the foundation upon which the ACMA becomes a true e-facing organisation. We have adopted the goal of being best in the Commonwealth in being e-facing. If anybody should be, we should be. Project Spectrum represents that. It is a classic example of where we have been voted the capital funds for it but not the operating funds to implement it, and I might ask Ms Carlos to talk a little more about that and what the implications are.

**Ms Carlos**—We received some capital funding in the 2007-08 budget process for Project Spectrum, as a result of the funding review of the organisation, primarily to replace one of our major business systems. It is not just one business system really; as we have gone through the project, it is looking at up to about 40 to 50 per cent of our business systems that are associated with our licensing and spectrum management functions. So at this stage we are looking at fully process re-engineering those functions—so really taking a greenfield view of it. We have spent pretty much the last 12 months looking at business processes with business analysts to question how we do our business and how we can do it better and whether we need to undertake all of those functions. As Mr Chapman mentioned, we received capital funding for that but we did not get any operational funding, and to date—

**CHAIR**—So you had capital funding for one year?

**Ms Carlos**—We had capital funding of \$10 million and it was over two years, but with capital funding you can carry it from year to year. The difficulty is that in this area we have got a lot of operational costs that we end up absorbing. The work up until the point when we actually select a product and start putting it in place is all under operating funding. So that has an extra impost on the business. We have to get our people offline to work with business analysts to review all of those processes. So that has been quite a large impost on us over the last 12 months.

**CHAIR**—So you been allocated \$10 million in capital funding over two years, and you are saying it does not include operational funding. Does it get reviewed and then looked at in terms of giving you operational funding for implementation? What is the process?

**Ms Carlos**—Generally you would have some operational funding, but ours all came through as a capital appropriation.

**CHAIR**—And that is to buy the equipment, buy the resources and expertise, do the analysis et cetera?

**Ms Carlos**—Yes—to actually build the product and put it in place, yes.

**CHAIR**—So it is assumed you will build in, absorb, those operational costs yourself. Is that right?

**Ms Carlos**—Yes, and we have been doing that. At the end of this process, when we have a product, we will have far more efficient business processes, so that will deliver us some savings. But it is that upfront investment that is required in order to deliver those savings in the longer term, and that is where we have to put extra resources in. It is taking people off the line areas and taking their time more than anything else.

**CHAIR**—At a time when the efficiency dividend was increased.

**Ms Carlos**—Yes.

**Mr Cheah**—I think there is an irony about the efficiency dividend here. Basically, to get these ongoing operational efficiencies, you have to invest in some of the analysis to figure out what the problems are and what the best solutions might be. The great irony is that, when you are in a shrinking and constrained resource environment, it kind of forces you back to looking at what the core functions and responsibilities are that you are required to deliver on, and the efficiency dividend significantly reduces your ability to do that kind of analysis and investment. In our submission under the terms of reference—

**CHAIR**—But the counterargument to that is that, after 10 years—or was it 20?—of 1.25 per cent, you should be so efficient now that—

**Mr Cheah**—That is kind of true. In our submission, looking at the third dot point in the inquiry's terms of reference—just to draw your attention to that—we gave you about four key examples of areas in which we have actually been looking for efficiencies. ACA, for example,

for a long time had been looking at its field operations. It had progressively been shrinking its field operations, trying to find more efficient ways of delivering services into the field. In this year's budget we have done another round of efficiencies in our field operations: we are closing six operational centres. That just gives you an example—

**CHAIR**—Your regional footprint is much reduced?

**Mr Cheah**—Yes, it is much reduced, but we would say, I think, that that is in a sense okay because it is a more efficient way of delivering the services. We think we can still deliver the services there, but it is at the end of a process—just about all of the efficiencies have probably now been extracted from that particular source. Project Spectrum is another potential source of savings. As Ms Carlos was saying, if you really want to get the efficiencies out of that, business analysis is the key. It is not so much building an IT system; it is actually thinking long and hard about your underlying business processes and whether they are structured in the right way to do that. That really does require quite intensive drilling down. We would like to do that in lots of our other areas. There is probably some scope for looking at things but when you are in a very constrained environment you have a reduced ability to devote the intellectual capacity to figure out ways of being more efficient. It is kind of ironic.

**Mr Chapman**—Project Spectrum is the centrepiece of a new transformed organisation that makes it a truly e-facing organisation that accounts for potentially about half-a-billion dollars of revenue collection on behalf of the Commonwealth.

**CHAIR**—That does not change with the new government, does it?

**Mr Chapman**—No. It is business as usual. But it is half-a-billion dollars; we are in the top 10 revenue collection agencies in the Commonwealth and that is often a point that is easily overlooked. The revenue assurance that we need to provide to ourselves in order to provide the government with half a billion dollars is to actually collect about \$740 million. But in terms of the taxes and licence fees it is about half a billion dollars. When the ACA and the ABA came together they were basically thrown together—I had better be careful what I say here; there were a number of legacy systems thrown together that will in time become unsupportable and that in any event, even if they were supportable, provide a rear-view mirror solution.

One of the other things we need to do as an e-facing organisation is to have a single point of contact so that people do not have to traverse their way through that myriad. We had a recent example where someone wanted to embark upon a new innovative communications business opportunity. It required that person to get five separate licence approvals or forms of assistance. We provide a letter of introduction to Attorney-General's for law enforcement reasons. It really brought it home to me when someone representing this new business opportunity was discreetly, or indiscreetly, working their way across the organisation having to seek out five different areas. It was a lightning rod to us—

**CHAIR**—Some streamlining would be advisable?

**Mr Chapman**—Not only streamlining but taking it to a new level—almost to the point of having a single point of contact, an account manager, if you like. That takes an understanding of business, a database and collaboration across the network. We are slowly working towards that.

These are the sorts of things that get compromised when you just have to reprioritise funding onto the day job.

**Mr Cheah**—I would like to add another observation. This revenue business is a really good example, I think, of what we mean by efficiencies. At one level we can try to extract our own internal efficiencies around these issues, but actually an underlying problem that we have, and it has really been highlighted by the merger of the old ABA and the ACA, is just how different a lot of taxing laws under which we operate are. One of the issues we have is that we manage about 10 different taxing acts. We are not actually a revenue collection agency like the ATO but we have to have internal skills that are capable of dealing with the government's requirements for significant amounts of money, which is entirely appropriate. They are quite exotic pieces of legislation, all of which have their own histories, which are again appropriate. The broadcasting licence fees have developed through a particular set of reasoning; the telecommunications ones have as well.

The actual real efficiencies to be gained out of this entire system probably come from looking at almost a converged way of treating this sort of stuff. It is actually thinking about the most efficient way of collecting revenue across all of these different kinds of services and having the same model which works. To do that probably requires some input back into government about the legislation itself and the way that works. Advice on legislation is broadly a matter for the portfolio department, but they will be looking to us, firstly, to tell them that efficiencies are being extracted and, secondly, for advice on the law—what might be the best ways of achieving those types of efficiencies both for ourselves and for our industry colleagues. So there are kinds of layers of efficiencies which are at work here and if we lose capability then we will not be able to provide that kind of advice either.

**Senator LUNDY**—Have they asked you?

**Mr Cheah**—About this particular revenue issue?

**Senator LUNDY**—Yes, and the sorts of efficiencies that you hope to be able to achieve with that model and that new way of thinking. You are the agency that has some investment in trying to develop it. What information and advice have you got flowing back either to your agency or indeed to Finance?

**Mr Cheah**—What we would do, I think, is that as we identify areas—there are lots of areas; this is just one example—we would have informal discussions with the parliament or occasionally we would write to ministers about that. It also comes down to looking for suitable opportunities for us as well.

**Senator LUNDY**—To follow through with your point, though, what you are really looking for is your own back channel to make sure that you are sharing the insights and efficiencies that you are achieving through the use of the new system.

**Mr Cheah**—Or preparing for suitable opportunities as well. For example, when the government does its next review of communications legislation we would like to be in position to say, 'Well, government, this may not be absolutely top of mind for you but one of the areas that you should probably look at and think about as you go through this is this revenue collection

thing. Here is basically a well thought through set of ideas and thoughts about how you might improve efficiency as well.'

**Senator LUNDY**—What I am interested in is this: where is the appropriate place for you to provide that information? What have you identified to date for flowing that in? One of the big issues for government is trying to identify additional efficiencies. What are the cross-portfolio opportunities that exist in doing that? This is a good example of an agency doing something really interesting. You have already got the capital to develop it. It is about what system is in place to make sure that the whole government can benefit from your work. That is what I am interested in. I am happy for you to take it on notice.

**Mr Cheah**—There is actually a deeper question as well and that is: do you want your communications regulator being a revenue collection agency? Where is the best place within the Commonwealth to think about those kinds of issues? There is another layer beneath that. That is one of the reasons we need the capability to be able to thoughtfully work our way through those issues.

**Senator LUNDY**—The first step is to make sure that they are aware of the capability. It is that line of communication.

**Mr Chapman**—We will take that on notice because it is an important question.

**Senator LUNDY**—It might be the CIO's committee, someone in Finance, it might be tied up with the Gershon review—I do not know. But I am interested in what you are able to do to pursue that point.

**Mr Chapman**—Thank you for that; we will take that on notice and we will come back to you. My immediate reaction is that we have not been able to generate enough traction with respect to the benefits of what we are trying to do. More broadly, taking it outside the narrower realm of revenue collection, over the last six to nine months, as you may be aware, we have started to raise the profile of the disparate pieces of legislation under what we have called, provocatively in some people's view, 'broken concepts' and we have been on the record for articulating eight areas of work where we think there are broken concepts—in other words, discontinuity between the various pieces of legislation. We have been starting to feed that back through the department, which I think is appreciative of the heightened interaction and dialogue between the ACMA and the department, and certainly to the minister himself and to the minister's office. As you would be well aware, it is not something on which we can get ahead of the policy position. That is ultimately not our role; our role is to regulate.

**Senator LUNDY**—That is right. But, as I said, you are in a position, because you have got some resources, to do something interesting and there may well be a whole-of-government benefit or at least lessons learnt for others—perhaps another agency not having to reinvent the same wheel. They may be in a similar position where they derive revenues.

**Mr Chapman**—You said we had resources to do that, and that is actually the issue for us: we kind of had them but our real problem is that we are under a lot of pressure to actually—

**Senator LUNDY**—I certainly take your point because this conversation is occurring in the context of your having received some capital funding for it but obviously with all of the constraints in following through with the operational funding. I certainly take that point. It builds on your earlier comments about irony.

**CHAIR**—As we are the audit committee I have to raise the audit report. You state in your submission that you were criticised in a recent audit report for delays in broadcasting investigations. Do you want to give some details about what impacted on your service delivery, timeliness et cetera and its relevance to this inquiry?

**Mr Chapman**—We have responded to the government on that and I think the government in due course will make a response to the audit committee.

**CHAIR**—Is it a system problem? Is it a resource problem?

**Mr Chapman**—Firstly, we welcomed the audit because it holds your performance up to the flame.

**CHAIR**—Yes, it does.

**Mr Chapman**—And, of course, people never quite see it in the same light. However, we welcomed it because it makes you go back to first principles, if you like, and reassess why people have different perceptions. So it was very healthy to do that. Of course, there is always some argy-bargy in the process. As an overarching response, I think it is a reflection of the reprioritisation, particularly in calendar year 2007, because of the massive legislative agenda that we had—for example, the almost wholesale deployment of resources, which would have otherwise been working progressively and consistently on some of the investigations, that were deployed for about four or five months on the new cross-media laws. You have limited resources but you sometimes just have to deliver against time frames. There were time frames built into the legislation for the new cross-media laws, so that is a very good example of some of the impacts.

I have been on record many times as saying that we need to lift our timeliness and responsiveness, and we are doing that. We have now implemented a cross-organisational enforcement and investigations committee. It is starting to pay dividends. We have been having discussions with Free TV about having a shorter precis of the way in which complaints can be framed so we can cut to the chase and better identify issues more quickly.

**CHAIR**—Will Project Spectrum fix some of these things?

**Ms Carlos**—Project Spectrum is focused around our radio communications and licensing.

**CHAIR**—It is a system for that?

**Ms Carlos**—Yes, it is looking at that—spectrum management and all of the licensing allocations and collections.

**CHAIR**—But it is reviewing business systems.

**Mr Cheah**—It is our transactions processing engine. We have a big transaction processing part of our business. I think there are 145,000 radio communications licences—certainly well over 100,000—per year, so it is a very big transactions engine and there are some genuine potential efficiencies there. These broadcasting—

**CHAIR**—Will those new business systems apply to other areas? Will they have application to other areas?

**Ms Carlos**—I think it is fair to say that some of the underpinning infrastructure that we are putting in place we will use across other areas. Things like the use of workflow and e-business technologies that we do not currently have will be put in place as part of Project Spectrum and we will leverage those across other business areas, but the business functionality of those systems that we are replacing on that side of the business is very much pure to our licensing and spectrum functions.

**CHAIR**—We are running out of time but I would like to thank you very much for the section of your submission where you put forward other models. They are very useful. We have not taken much evidence on that today. What very much appeals to me is the idea of rewarding the efficiencies, and yet there is no reward for efficiencies except another efficiency dividend. You also raise treating mixed agencies as full cost recovery agencies; multiyear funding so that you have some certainty; and perhaps lowering the limit for new policy proposals. If there is any particular one you would like to assert or support here publicly on the record I would be very interested in that being put forward.

**Mr Chapman**—The thing I did want to say when I re-read that was that they are not mutually exclusive.

**CHAIR**—You want them all!

**Mr Chapman**—I think a sensible combination of some of those would provide a sort of informed flexibility that nonetheless keeps a reasonable restriction, an envelope, over the agencies. There could be a tendency for people to say, ‘They want to have their cake and eat it too,’ but those six or seven suggestions are not mutually exclusive. In fact, all seven could be applied. I wanted to highlight that point in response to your question.

**CHAIR**—Does anyone want to comment on any of those suggestions in the submissions?

**Mr Ambrose**—I would like to endorse Mr Chapman’s comments there. Several of those facilities, as Mr Chapman said, are not mutually exclusive. One of the major issues facing financiers in the governance environment today is the knee-jerk reaction of planning on a year-to-year basis. I think a combination of those suggestions there would allow the agency in question to be able to plan further forward. Sometimes efficiencies and benefits are not gained in 12 months; they take a longer lead-up and investment period and can be utilised in the second, third and fourth years. So certainty of planning is a major focus—continuity of a base, a platform to be able to go forward on. For instance, a cost recovery process is one that is very transparent. It is there in the parliament.

**CHAIR**—One of the suggestions was keeping some of that. Do you want to increase your cost recovery or do you want to keep it and/or both or—

**Mr Ambrose**—I think it comes down to having the best model that suits the organisation. The best model for the stakeholders, the community and the government, is revenue equals expenses for transparent cost—

**CHAIR**—So cost neutral.

**Mr Ambrose**—Cost neutral, yes.

**CHAIR**—That means you are not giving anything back.

**Mr Ambrose**—It allows an agency, when it requires resources to be able to support its operations, to actually invest in those resources and carry them forward. On the other hand, when an agency gets efficiencies, it allows them to pass back price reductions and charge reductions to the community, the stakeholders. You are studying quite a few agencies, and some of them have got some very good track records in transparency, appropriate staffing levels, good long-term planning and competitive structures in pricing structures.

**Mr Cheah**—One of the interesting differences between the ACMA and the previous two agencies, the ACA and the ABA, is that the ACA and the ABA were both CAC Act agencies whereas we are now an FMA Act agency, which means of course that the previous two agencies did in fact get to keep quite a bit of their cost recovery money. They had provision to be able to do that, whereas we have almost none. It is quite interesting—and we give this example in our submission—that we were actually sometimes given NPP money in the early days of the ACA, for example for submarine cables. We were given it for a certain number of years and then the NPP money fell off, with almost an expectation that from that point on it would be cost recovered and we could keep it. But in fact we have not been able to do that with submarine cables going forward.

**CHAIR**—Are you still putting in for NPP money?

**Ms Carlos**—We take every opportunity we can find.

**CHAIR**—And it is not always successful?

**Mr Cheah**—Of course, you have got the \$5 million threshold.

**Mr Chapman**—The answer to your question is: no, it is not always successful. But it is a very lumpy, ad hoc system that does not provide for openness and transparency. I need to say that the department are increasingly constructive in the way in which they are helping us. I would not want that misrepresented, and it is for us a very welcome trend. Having said that, we are one step behind the department and there is always some loss of translation. You do not get the immediacy and you do not get the ability to cut through. We think there is significant room for improvement in the NPP process. The final point, just to reiterate it, is that with an FMA agency there is this binary outcome at the end of every financial year: use it or lose it. That is

new to me in my experience, with this being my first foray into the Public Service, and it does not allow smoothing in forward planning.

**CHAIR**—Also my experience on the Joint Standing Committee of Public Accounts and Audit is that it can be lumpy or you can get some rapid expenditure in the last few months, which is not always the most efficient use of the money, just to get it spent. And, as you say, planning does take time, and you go through the processes but you have got to suddenly expend that money ASAP.

**Ms Carlos**—And I think that goes to one of the final suggestions—having a little bit more flexibility in the use of surpluses and losses year to year. I think most government agencies understand that you cannot run your equity down so that you become insolvent, but there is a very, very tight process around being able to have access to that funding from year to year, and it might quite often be a timing difference. That makes it very difficult over the longer term to be able to plan as well. So more flexibility in that area would help.

**CHAIR**—Do you think complacency sets in if you are given longer term funding?

**Mr Cheah**—Maybe if you moved to think about that as training or funding or something, that would be a bit more of a balance. But, if you are given a certain amount every year and you must spend up to it, it can almost create some perverse incentives for people to behave inefficiently towards the end of the year because they have to spend their money, because they know that if they do not then people will turn around and think, ‘Okay, it will potentially be chopped.’ So training was one. Another thought we have in there as well, and this goes to your question about access to NPPs, was the idea of catch-all NPPs for smaller agencies—probably even a bit less for us than for some of the other agencies around.

**CHAIR**—Do you mean you lower the limit or you work across agencies?

**Mr Cheah**—Maybe every couple of years you allow a smaller agency to say, ‘Here is an omnibus—

**CHAIR**—So you give them some initiative money or some innovation money or something?

**Mr Cheah**—Allow them to put in an omnibus NPP maybe every couple of years to say, ‘Here is a bunch of things we would like to be able to do, government,’ or: ‘Here are some things we are thinking about doing or we have been approached to do. We have got some ideas for efficiencies. We may not meet the threshold of \$10 million, but we would like to have some process by which we could come and ask.’

**Mr Chapman**—To put it more directly, you get an opportunity in a transparent way on a periodic basis to reset your funding base, because we continually get new responsibilities without the requisite funding and the boiled frog syndrome rears its head. You eventually find that you have run out of capacity to do the job.

**Mr Cheah**—The other side is that sometimes you get other stakeholders who want us to do all sorts of things as well, or we might have some good ideas about things we could do, which would actually be—

**Senator LUNDY**—We might have some good ideas!

**Mr Cheah**—You might even have some good ideas as well. But the current process actually does not create any incentives for agencies to put their hands up and say, ‘How about we do this extra bit of work here?’ Because, if you put your head up over the parapet and you know you are not getting any funding, you might very well be told, ‘That is a really good idea—do it; but, by the way, absorb.’ It would be nice to have a structured process by which we could say: ‘Here are a raft of smaller ideas, government; it is up to you to decide whether you want to do this or not. If you want us to do that then please think about how you appropriately fund us.’

**CHAIR**—So it puts you in a holding pattern approach rather than a reform and innovation—

**Mr Cheah**—It almost sets up a disincentive for agencies to volunteer ideas about useful things to do, because you risk being told to do it but without any funding.

**CHAIR**—That is terrible. I do like a little bit of risk taking—no, we don’t; this is the public accounts and audit committee! As there are no further questions, thank you for attending today. Your submission was very useful and did put forward alternatives, which we need to consider in this inquiry. Thanks also for providing this document outlining the overview of your organisation. We might request one of those from every agency and department.

**Mr Cheah**—As the chairman said, that was just our own internal functional directory. That is what the people on our front desk use when inquiries come in.

**CHAIR**—Yes. Thank you for attending today and assisting the committee with the inquiry. I think you are satisfied that there is nothing else you wish to put forward to us?

**Mr Chapman**—We have taken one question on notice. Thank you for that opportunity and for this opportunity today.

**Proceedings suspended from 11.29 am to 11.39 am**

**CASSIDY, Ms Megan, Assistant Registrar, Administrative Appeals Tribunal**

**HUMPHREYS, Mr Douglas, Principal Registrar, Administrative Appeals Tribunal**

**WISE, Mr Steve, Chief Financial Officer, Administrative Appeals Tribunal**

**FOSTER, Mr Gordon, Executive Director, Federal Court of Australia**

**SODEN, Mr Warwick, Registrar and Chief Executive, Federal Court of Australia**

**HICKING, Ms Anne, Executive Director, Corporate Service, Federal Magistrates Court of Australia**

**MATHIESON, Mr John, Chief Executive Officer, Federal Magistrates Court of Australia**

**CHAIR**—I welcome witnesses to the table. It is very good of you to present together today. Does anyone wish to make a brief opening statement?

**Mr Soden**—I think that is down to me—as a start, in any event. By way of introduction, I have had an opportunity to read the evidence given by our colleagues from the High Court and the Family Court. I have also had the opportunity to look at their submissions to this committee. The points that they make are in essence the points that we would make—more particularly, that I would make on behalf of my institution. The essence of that is: a very large proportion of our costs are fixed costs—judges' remuneration and costs associated with running the purpose-built courthouses in the CBDs. In our case, those costs amount to about 50 per cent of our costs and we do not have any flexibility at all to apply the efficiency dividend to those areas. We do not have control over the appointment of judges. If, due to workload trends, there was a reduction in the number of judges we would not get to keep the value of that—the value would go back to budget. From our perspective we understand the logic of the application in a universal way of the efficiency dividend as a mechanism to promote efficiency. As an aside, in my own institution when I need to apply budget cuts we apply them in a similar way across the registries of the court because it is an equitable and fair thing to do.

**CHAIR**—You allow each registry to try to find their own savings—is that what you mean?

**Mr Soden**—Yes, rather than necessarily dictating to them how they ought to make their savings. Those registries are in Perth, Darwin, Hobart. They are there to be responsible and accountable, so we certainly understand. But the essence of the point that we really wish to emphasise is that unlike some of the major institutions of government, the major departments, the organisations here today—the AAT, the Federal Court and the Magistrates Court—are very new and quite small by comparison, and of course that is in the terms of reference of the committee.

In the evidence that has been given there has been reference to some of the large departments having a greater capacity, through length of time, to have funds secured. We, being small and new, have never had the opportunity to secure funds away. We have operated from a very low

and transparent base right from the very start. Having a large proportion of non-discretionary costs means, in respect of my institution and probably the other institutions here, that the efficiency dividend application on us has twice the intended effect. It is what I describe as the double whammy effect. In our case, about 50 per cent of our costs are in the non-discretionary area and the application of the efficiency dividend to the other half in effect means a doubling of that efficiency dividend on those discretionary costs—travel, court reporting, staffing, IT and all those sorts of things.

Our institutions all have different markets so we need to be small, nimble, flexible and able to respond. But a whittling away of the base upon which we have flexibility through the application continuously of the efficiency dividend does substantially reduce our nimbleness, our flexibility and our capacity to do things like investing in IT for the delivery of these services. If it comes to the crunch, clearly when it comes to questions about delivering primary services or investing in new technology, whilst it is important to spend in new technology, primary emphasis must be given to the delivery of services. So there will come a point in time in the very near future where we will not be able to respond in the way the public expects us to respond with the delivery of new e-services.

**CHAIR**—Have any of the agencies before us reached the point in any of their service obligations where they are delivering a lesser service because of the efficiency dividend application over such a long period of time?

**Mr Humphreys**—In relation to the AAT, whilst we will not reach that point this year, in the absence of additional funding being made available or in the absence of there being further permission to operate at a deficit, which is not sustainable in the long term—

**CHAIR**—Have you been operating at a deficit?

**Mr Humphreys**—We have a \$600,000 approved deficit this year, that is, 2008-09. I estimate that will blow out to probably about \$1.5 million the year after and then start escalating into the never-never thereafter. The only way that we can continue to operate will be to quite savagely reduce the number of hearings that we hold. The easiest way to control our expenditure is to reduce hearings and the usage of part-time members. That is one controllable area. We have 19 full-time members and about 50 part-time members. They are casual, if I can use that term, in terms of the way we use them. If we reduce the usage of part-time members and the associated support services then that will allow us to operate within the budget in the absence of additional funding.

That is going to have a knock-on effect through the entirety of government as the decision-making process and the appeal process for social security recipients, veterans, tax matters—which are a significant revenue generating opportunity for the Commonwealth—and Commonwealth workers compensation slows down. That slowdown will be exponential as we wind back our capacity to hold hearings and, indeed, do regional work up in Townsville, Cairns and over to Darwin—travel and things like that. We just cannot do it. We can use, as best we can, technology but there is a limit to what you can do. I think there is a reasonable expectation, certainly amongst the members of the public, that they will get to see somebody face to face rather than through a telephone hearing or videoconferencing to have their matter finally

determined. We are the final point of appeal in the Commonwealth merit process that we have set up.

**CHAIR**—As a member of parliament representing constituents and having been to your tribunal with some, and representing them as well, we know that it is the final appeal for our constituents. Certainly the success rate is very high. Can you give us any figures on that?

**Mr Humphreys**—Not at that moment, in terms of how it goes. I can say this: 80 per cent of matters that come to the tribunal do not proceed to a hearing.

**CHAIR**—That sounds pretty efficient to me.

**Mr Humphreys**—That means that through our conferencing process, which is our primary dispute resolution process, matters are settled. Through the benefit of some legal advice that we organise for people they may realise that they cannot win and that their appeal does not have merit. Alternatively, they may be able to provide additional evidence to the respondent department such that the department concedes the matter. Alternatively, there may be a negotiated process in which the department may concede part of something. I am talking about, perhaps, social security recovery. Perhaps the department will concede that the person has to pay only so much, or there might be a time payment process put in place and the matter settles. As I said, 20 per cent of matters go to hearing. In answer to your question, it is probably half-half, but I would have to take that on notice.

**Ms Cassidy**—The results of our most recent user survey, which was conducted earlier this year, indicate that—I would have to get you the exact figures—roughly 60 to 65 per cent of people took the view that they were successful at the tribunal. Whether that means they were successful, or not successful in substance but had things explained to them, they were satisfied with the experience.

**Mr Humphreys**—In particular one of the things we try and do is explain to people why it is they were unsuccessful. One of the most touching things that I have seen is a letter I received from an 80-year-old war widow who said, ‘For the first time I was able to sit down with somebody who was an expert.’ The member who was doing it was a thoracic surgeon, who gave an expert appraisal and went through and discussed the matter with the woman. The woman said, ‘I actually understand why I was unsuccessful, and I am happy with the outcome, although I was unsuccessful.’ That is a dispute resolved and somebody has walked away happy, even though they were unsuccessful.

In terms of government decision making, it is terribly important that we can do that and can continue to do that, because it means that people will understand and they will feel confidence in the system. If we get to the stage where we cannot provide the level of service that we need to, as I said, there is going to be a ripple effect throughout government. I think there is the potential for a loss of public confidence in the government administrative decision-making process. They see the AAT not as being a separate body but as being the continuum, the final point in the decision-making process.

**CHAIR**—Do the Federal Magistrates Court wish to add to that?

**Mr Mathieson**—The position with the Federal Magistrates Court is that last year the court ran at a deficit of \$1.8 million, in part inflated artificially because a review of the delivery of family law services was initiated in March and, as a result of that, discussions about transfers of funds between us and the Family Court were put on hold. The impact of that was that funds that probably would have otherwise been transferred were not. However, taking into account what needs to be saved in the current year, we have taken as many steps as we could but, even with that, we are still predicting that in this current year we will again run at a deficit of about \$1.7 million.

**CHAIR**—Some of the losses you said were due to having absorbed the costs when judges retired and were replaced by the Federal Magistrates Court. Do you anticipate that continuing or will you just have to await the review as we do?

**Mr Mathieson**—We certainly do have to await the review, but we do anticipate that we will continue to sustain losses, subject of course to what the review might do to redress that. As you may know, there were seven additional appointments to the Federal Magistrates Court announced a fortnight ago. Of those, three were replacements of Family Court judges and one was a replacement of a judicial registrar. In each of those cases, we will need to absorb shortfalls.

**CHAIR**—And the other three were for growth, were they?

**Mr Mathieson**—One was growth and the other two were replacements, one because of a retirement and one because of a death.

**Senator LUNDY**—Has that always been the case?

**Mr Mathieson**—It has been the case since judges have been replaced with federal magistrates directly. For an initial period there was a different funding arrangement, but certainly over the last four years, as judges have been replaced on both of the superior courts with a federal magistrate, there has been a negotiation, and the position taken by the superior courts is that they would only transfer to the Federal Magistrates Court the direct costs that the superior courts were incurring.

**Mr Soden**—Can I mention one area where I think there is a significant risk for all concerned. It is in the area of what I describe as our property management. The courts all occupy purpose-built Commonwealth courthouses. They are centrally located, for ease of access to the public. They are modern in their design and the way in which they work. The shackles of the colonial relics of the past have been removed federally, and you would not necessarily know it was a courthouse unless you were invited to it.

They are modern, they are inviting and they have been built for the future, but they are very expensive to maintain. They are purpose-built as court complexes; you cannot simply use existing commercial property to design, operate and appropriately run courthouses. There are special security requirements that the public now expect. We cannot go and lease property, because the owners, the lessors, are very concerned about security issues and the like.

I have with me today the executive director of our corporate services. He is also the chair of the national building committee for Commonwealth courts. He could certainly give the committee some expert evidence in relation to this issue, which I believe is an important issue for the public.

**CHAIR**—And you see that as a non-discretionary cost to the courts?

**Mr Soden**—Yes, we do. It is about one-quarter of our costs.

**CHAIR**—Before we go to Mr Foster—you were running at a loss in the last budget year?

**Mr Soden**—Yes.

**CHAIR**—As were the Federal Magistrates Court and the AAT?

**Mr Humphreys**—We did not run at a loss; we had a surplus of \$198,000, which went up and down. We did not know whether it was going to go one way or the other. I would call that coming in cost neutral. But, as I said, we have an approved deficit this year, and I can assure you we are going to use every cent of it.

**Mr Soden**—Madam Chair, we have quite a substantial approved deficit this financial year, of \$3.5 million. It is coming out of our reserves. So we are going through some major—

**CHAIR**—Most agencies do not have reserves, do they?

**Mr Soden**—I think most agencies do have some reserves, yes.

**CHAIR**—Is that capped with some sort of formula or at some figure?

**Mr Humphreys**—The reserve is made up of a number of things. It is made up of depreciation funding for assets. One of the issues we talked about in our submission was that we had a number of assets for which depreciation funding was never provided.

**Senator LUNDY**—Why?

**Mr Humphreys**—The greatest example was our case management system. Our case management system was over 10 years old when the depreciation funding was introduced. The department of finance in their wisdom said that, because it was an asset that was fully utilised, there was no need to provide depreciation funding for it. We soldiered on for another eight years with the system. It was a mainframe with lovely blue and white screens—a beautiful piece of technology from the 1960s! It did the job. When we came to replace that piece of technology we put in an NPP. It was rejected.

**CHAIR**—Was it lower than \$10 million?

**Mr Humphreys**—It was certainly lower than \$10 million. We had to fund that out of reserves.

**Senator LUNDY**—Dealing with Finance, of course.

**Mr Humphreys**—Yes. We funded that out of reserves. The double whammy is this: having gone out to tender, bought a new system and put it in, we do not have the money to bring it up to the levels we would like to in terms of e-filing and all those sorts of things. All we have done is replaced the base. I have to try and find some money to do other things with it.

Having replaced the asset, we now have to depreciate it, so I have to take money from our operational works to depreciate an asset that I was never funded for. And this is not the only situation where this has happened; there are other examples.

**CHAIR**—So, when you are talking about reserves, you are including depreciation costs—

**Mr Humphreys**—Depreciation, long-service leave, accrued liabilities and surplus.

**CHAIR**—So it should match your future liabilities.

**Mr Humphreys**—But again, interestingly, if you have reserves, they are held by the department, and there is no inflator on reserves. The assumption is that, if 10 years ago I bought a photocopier or whatever, today I will be able to purchase the same piece of equipment, technology or fit-out, for the same price.

**Senator LUNDY**—Which is certainly a long way from the reality.

**Mr Humphreys**—We had to move at the end of our lease in Perth—the lessor refused to renew the lease. It cost us three times the original cost of the fit-out in Perth for a number of reasons, including a red-hot labour market and property market over there. But to get it done in the time frame we needed, it cost us three times the fit-out costs. Now, that is coming again. I have got to depreciate that. That is coming straight out of our operating budget and going to property.

**CHAIR**—When you have an approved deficit facility it is really based on the amount of money you have in your reserves?

**Mr Humphreys**—If I run out of reserves at some point of time, the game is up.

**CHAIR**—No-one is going to let you run a deficit. Mr Mathieson, from the Federal Magistrates Court: you wanted to add to that?

**Mr Mathieson**—I wanted to emphasise Mr Soden's point about property before Mr Foster gives his evidence. I was going to remind you, Madam Chair, of the current position in Newcastle—

**CHAIR**—You do not have to remind me!

**Mr Mathieson**—where we do have the experience of running, or attempting to run, a court operation in a leased premises. It is totally inadequate. The family law courts have the same problem—Mr Richard Foster gave some evidence about this in Canberra—in Cairns and in

Launceston. What Mr Soden says is absolutely correct: the only way to operate an effective court process is to do it in purpose designed buildings owned by the Commonwealth.

**CHAIR**—And I put on the record my appreciation of the work being done at the Newcastle registry by the magistrates, the judiciary, the administration and staff. That there have not been major incidents, or more so than there have been, is a tribute to their ongoing abilities to overcome their difficulties. Mr Foster, would you like to make some comments? We would like to see the picture across the country.

**Mr Foster**—Certainly. I am working with the Federal Court but I also chair the National Building Management Committee, which is a group of senior executives from all the judicial areas who meet basically to oversight the management of the Commonwealth law court buildings. Those buildings in total would be running a budget of about \$65 million per annum, which is disaggregated back to the courts on the basis of the tenancy areas they occupy. So each court has a property operating budget, which has to be paid for out of their appropriation and which covers rents, outgoings, electricity and all those sorts of things. I want to reinforce that they are purpose built; they are not commercial buildings at all. They are solely occupied by the courts. They are owned and managed by the Department of Finance and Deregulation, and that department has memorandums of understandings with each of the resident jurisdictions for their proportion of the occupancy. In the Federal Court's case, if we have 37 per cent of occupancy in the Perth building then we pick up, in rough terms, 37 per cent of the running costs of that building, and the other jurisdictions do likewise.

The issue, in looking forward, is that those memorandums of understandings are based on commercial leases. We actually do pay rent to the department of finance. We have leases expiring that have market rent payments in relation to those leases. As it happens, for about five of the buildings the leases expire in July 2009 and the courts together have tried to get an indication of what is likely to happen with those commercial leases quite independent of the department of finance, because it is a fairly legal formal arrangement between the two.

**Senator LUNDY**—You are paying market rents?

**Mr Foster**—Absolutely. Taking Perth as but one example of the types of problems we might face in the future, the property market in Perth, which is the basis of a commercial rental arrangement, looks at A-grade buildings, and our expectation is that the rents the courts are paying will go up in that location alone by somewhere in the order of 200 per cent—\$1 million to \$4 million, say. The question is how that is possibly met into the future by the courts who all—it is not just individual courts but each of the courts—are in loss-making scenarios. On that one building alone, the Federal Court would have no hope in the world of coming to an arrangement to pay those additional rents. And we have similar figures, we think, floating through in relation to Brisbane, Melbourne and other locations.

The model is a commercial arrangement. We do not get funded for anything like 200 per cent increases in rents—we get our 0.85, or in some cases our negative, funding for it. So the model in that sense seems to me somewhat flawed. We would basically now be negotiating with Finance and saying, 'I'm terribly sorry, we can't afford to sign a new lease with you because we cannot, under the finance act, actually certify we have the money to pay for these premises.'

**Senator LUNDY**—Are you bound to have an arrangement with Finance as owners of Commonwealth assets? Is there anything in your statute that requires you to do that? How real is the position you are saying you will put, which is, ‘We can’t afford to sign up’?

**Mr Foster**—The position is real. I think the arrangements in place are more of an administrative basis than a regulatory basis, and they are actually driven of course by the department of finance.

**Senator LUNDY**—So you do not have a lot of choice?

**Mr Foster**—We do not. The other side of that coin is we are not about to move out of those buildings and try to find commercial premises. It is just quite ridiculous.

**CHAIR**—So wouldn’t you put in a new policy proposal to try to cut that, even if you had to absorb a few other agencies to do so, on the basis of building and asset management?

**Mr Foster**—There would be five, six or seven agencies who would perhaps join together, and we would certainly try that as one option. But, as I say, in terms of the actual formality of the arrangements in place at the moment, there is no way that those sorts of increases can be funded under a model that has the efficiency dividend built into it.

**CHAIR**—And those costs are quite extraordinary and are being felt outside your sector as well.

**Mr Foster**—Absolutely.

**CHAIR**—Sustaining that is going to be very difficult.

**Mr Foster**—And they are fixed, as I say. I will give you an example. In the other area of the operations—not just the rentals—it is not an efficiency divided where we are improving the efficiency in terms of the operation of the buildings; we are—

**CHAIR**—It is asset management.

**Mr Foster**—Yes, and we are literally into cost cutting. The decision is: do you clean the external windows of a building three times a year or go down to once a year? We are down to providing security in the court complexes. Considering at the present point in time we, as is the case with all the courts, are trying to reduce operating costs, I will potentially—decision not made—not be providing security over the weekends, when invariably the buildings are occupied by the judges. When it comes to these sorts of things, it is not an efficiency measure at all; it is just cutting costs to the bone, and there may well be some unworkable arrangements that result.

**Senator LUNDY**—With respect to the memorandum you have with the department of finance about paying a percentage of costs based on occupancy of the building, does that go across to things like energy costs, electricity bills, water and so forth? Is that apportioned based on occupancy?

**Mr Foster**—At present it is a fairly simplistic model that takes that percentage and applies it largely across all of the running costs.

**Senator LUNDY**—If you were to innovate and find some of your cost savings in, say, energy usage, how would you redeem that through your arrangement with Finance?

**Mr Foster**—Energy management is a very interesting one that the courts are now starting to pay a lot more attention to than they have in the past. The reality is that most of the significant energy saving costs require a capital investment upfront. People think of energy in terms of just turning out the lights, and they are things that users can actually do. But, from a building management point of view, we are talking about things like electricity consumption. The reality is that, across the Commonwealth law courts, the amount of electricity consumption is largely constant in a given building over a number of years. It is to do with heating and cooling. It is not actually something that you can do of want—you need to actually look at the infrastructure of the buildings. That requires money and the courts do not have the money.

**Senator LUNDY**—So, as the asset owner and manager, if there were any investment in that regard, DOFA would redeem the benefit from that as the asset manager—not you as the occupier of the building?

**Mr Foster**—It depends on the instance at hand. Without trying to paint the wrong picture, the department of finance at the moment are sponsoring some energy management audits of their buildings. We are just tenants in it. We have not quite got to that argument yet as to how some of the funding is provided for some asset replacements.

**Senator LUNDY**—I guess the point I am getting to is: because of your arrangement based on your memorandum, even if you were able to identify some efficiencies, you would not see the budget benefit of that.

**Mr Foster**—Yes. I am being a bit vague because part of that efficiency comes to the tenancy areas. So if in fact as tenants in there we can reduce our operating costs, we would actually do that and we would take the benefit of it. There may be other things—

**Senator LUNDY**—But you cannot do the structural stuff to the building?

**Mr Foster**—No, that is correct.

**Senator LUNDY**—How are IT and corporate services organised?

**Mr Foster**—Picking up from some of the comments previously: each of the courts do have their own strategic directions, largely in relation to priorities for IT developments and enhancements. The reality is that, again, each of the courts funds that themselves out of their appropriation. I am not aware, across any of the courts that we are involved with, of where they have been successful with new policy proposals for IT enhancements. So the examples that the AAT give in relation to their case management system are mirrored with the Family Court, the Federal Court and the Federal Magistrates Court, paid for by the jurisdictions as best they have been able to manage. A lot of the thrust towards things like electronic lodgement systems is paid for by the courts as best they can manage.

**Mr Soden**—Can I say in relation to that that the costs incurred in IT by the Commonwealth courts, the federal courts, on any comparison are low, but the results have been quite spectacular in terms of the e-services direction and the e-filings. There is a good, strong, robust case management system provided by the Family Court, which we use and the Federal Magistrates Court uses. We collectively have used different areas of expertise to leverage up for the benefit of the Commonwealth taxpayers. The Family Court has been able to provide Casetrack. We use that in a modified way to do our basic case management data work. We have, I think they would agree, led the way in e-services, e-litigation, the e-court. We have focused on that. They are now picking up on that, and the Federal Magistrates Court have been able to take the benefit of that. That has been done for a few million dollars all up. You hear and see many, many stories of other major institutions spending tens and tens of millions and not being successful. We have been successful.

**CHAIR**—Why do you think that is? Why have you been able to do that so efficiently? Have you outsourced those contracts and got good advice or have you used the knowledge of the people within the organisation? How do you think that has been achieved?

**Mr Soden**—I think it is a bit of both and a bit of ability with each of the organisations to take advantage of their speciality and expertise rather than collectively go for a huge solution, which we all feared would be too risky.

**Senator LUNDY**—Can I congratulate you on what you have achieved with that, because you are quite right: it is an extraordinary challenge to innovate on the smell of an oily rag, so to speak. Have the other courts had issues with depreciation of IT assets, as the AAT described?

**CHAIR**—Before we go to that, can I just ask: AAT, you are not so boastful about your success in IT, are you?

**Mr Humphreys**—No; in fact, I am extremely—

**CHAIR**—You say you are below benchmark.

**Mr Humphreys**—I am saying that, for a minimum cost, we have introduced a new system. We went to market. The capital cost involved was half a million dollars and then there was about half a million dollars worth of organisational costs in inputting it. I have a system that is very, very good and it is the hub of a system that, if I have the money, I can turn round and get modules that are available—it is a commercial system that has been modified for the tribunal but it is in use in other tribunals—

**CHAIR**—So it is fine but it is core and it is not allowed to be expanded?

**Mr Humphreys**—It is core and I do not have the money to turn around and do the things I want to do.

**Senator LUNDY**—I just want to find out if you are able to depreciate your IT assets in what we would consider the normal way, as opposed to the abnormal way that the AAT experienced.

**Mr Foster**—The issue with depreciation is an interesting one. It depends on the issue you are looking at. The case management system is unowned by the Family Court. In an informal way we have a licence arrangement to use it, so therefore we do not have a depreciation issue with those assets. With a number of our other IT assets, however, we have the perennial problem to the extent that we actually replace them and therefore depreciate them or we go down a leasing path. In recent years we have had a firm management decision to lease a number of our IT systems et cetera and our equipment.

**Senator LUNDY**—Is that because depreciation was inadequate?

**Mr Foster**—I would not say it was inadequate, but it was the right decision at that particular point in time. It is an issue of the model, and one of the points I would make simply is that, just looking at it in principle, I would prefer for the courts to retain depreciation funding so that they actually have some control over what projects they do and the way they move forward in capital investment. The alternative, which has occasionally been put, is that all the depreciation funding would go back to the department of finance. Without actually understanding the mechanics around that, if that meant the Federal Court had to write to the department of finance to access funds for capital replacement, I would be fairly worried about where we fit in in the queue.

**Senator LUNDY**—Back to square one.

**Mr Foster**—So, in a model, I support depreciation being retained by the courts, because it does give us some direction in terms of autonomy to proceed with projects that we would like to pursue.

**Senator LUNDY**—And also the capacity to innovate, if you are making those decisions about your investments in your new assets.

**Mr Soden**—Exactly. Certainly it gives us the flexibility to be nimble, to respond and to innovate—but also to be accountable. We have to make those hard decisions about what we can afford to spend, in a business sense, in terms of: is it going to be good value? Will it deliver what we need?

**Mr Mathieson**—The Federal Magistrates Court is in a slightly different position, although the thrust of what Mr Foster, Mr Humphreys and Mr Soden said is also true for it. It was established on the assumption that it would share the infrastructure provided from the two superior courts.

**CHAIR**—We have done some audits on that in the past, yes: not a perfect model.

**Mr Mathieson**—Currently, all the Federal Magistrates Court IT services are provided by the Family Court. We own and depreciate our hardware, but all of the other services come from the other courts. Nevertheless, we have invested, with the two superior courts, in the development of a portal. My concern, as I look over the horizon—certainly for the Federal Magistrates Court's situation and I suspect for the other two courts as well—is that there is going to be no capacity to invest in innovation. The discretionary funding will just not be there. We will be simply scratching to make ends meet—even perhaps, in time, if it is accepted that the service delivery that we can offer will be reduced.

**Mr Foster**—If I could make a point in summary: in a sense the depreciation funding is also affected by the efficiency dividend. It is part of that fixed cost, in a sense. It is devalued on each occasion as part of the budget process.

**Senator LUNDY**—It makes it a bigger percentage of things that you have got to take it from. In achieving your efficiency dividend savings previously—that is, under the 1.25 per cent—to what degree did your capacity to innovate in IT in the way that we have been discussing help you achieve those previous targets?

**Mr Mathieson**—In the case of the Federal Magistrates Court, it is very difficult to assess because we are simply so young. We have existed for only eight years and we have gone through periods of exponential growth, so it is very difficult for us to identify that.

**Mr Soden**—My response to that is that we have really tried to ensure that we take the greatest opportunity to make the investment in the e-services environment in the future—not to specifically save costs now but in order to be able to continue the delivery of many of those services in the future, when there will have to be decisions made as to whether there is an e-service solution or whether there is a public face at a counter solution.

**Senator LUNDY**—So we will be enduring a dual mode of delivery for some time yet.

**Mr Soden**—That is inevitable. People need the face-to-face contact, support and assistance that the community expect a court to provide. At the same time, the business community is expecting the courts to provide the e-services to them because they are dealing with related businesses on an e-service basis. So we are expecting to do both.

**Mr Humphreys**—And we are not there yet. As I said, we have a very good case management system but I do not have the funding to take it to the level where I think it is a legitimate expectation of the Australian public in terms of e-servicing and what the profession want in terms of being able to find out and interrogate the system in relation to their own matters. At the moment, I cannot see that I will ever be in a position, without additional funding, to do that.

**CHAIR**—How much would you need to continue that task?

**Mr Humphreys**—That is not a question that I could answer off the top of my head.

**Senator LUNDY**—You can take it on notice if you like.

**Mr Humphreys**—I will take it on notice. We have other issues in relation to our compliance with ACSI 33, which is a government security standard. We are not even meeting that at the moment. We put in an NPP for funding for that. It was approved but not funded.

**CHAIR**—So the need was recognised?

**Mr Humphreys**—The need was recognised but it was not funded.

**Senator LUNDY**—Everyone is supposed to be compliant with ACSI 33.

**Mr Humphreys**—We do not comply with ACSI 33 and I might say that we do not comply with the *Protective Security Manual* either, and the government has been made aware of that.

**Senator LUNDY**—We did a Joint Public Accounts inquiry into that in 2005.

**Mr Humphreys**—I am not going to go into any more detail in relation to where the issues are, but I am extremely concerned as to our capacity to continue to maintain the level of occupational health and safety security and the level of IT security that I need, and we are now in a position where there are significant issues at risk.

**CHAIR**—You do mention that you are demand driven. What is demand like at the moment? What causes the peaks in demand? Is it new policy application? Is it a new government?

**Mr Humphreys**—There is a raft of causes for us. The most recent spikes we had were when the Australian Taxation Office decided to conduct a blitz on tax minimisation schemes. There were a large number of tax minimisation schemes that were marketed. They were particularly marketed in some of the mining communities in Western Australia. We received a significant influx of tax scheme matters which we have been working through assiduously. We have managed to get over most of the first raft. I had a bunch of a thousand matters that came in last year that are probably going to require a whole heap of resources for us to get them resolved. They are the same but they are also different, and they will probably require individual hearings. That is a four member person—

**CHAIR**—And you cannot cost recover and pass those costs on to the taxation department?

**Mr Humphreys**—No.

**CHAIR**—What a pity.

**Mr Humphreys**—Although one would imagine that we would get a whole heap of money for the Commonwealth. We have seen a decrease in veterans' affairs matters, as unfortunately veterans have been passing away and there are not placements coming through. We saw a spike last year in social security matters, particularly secretary appeals in the social security area emanating from DEWR. I understand there has been a review in that area. We have noticed a decline in the number of appeals. Last year we actually dropped about a thousand matters on our previous year, and that is one of the things that has been keeping our head above water. We have managed to finalise more matters than came in—by about 800. We are very happy with that, but we still have issues.

I think last year was an aberration, and I think for a number of reasons. They may have been related to the election, new government et cetera. There was a whole heap of decision making that just did not happen, and I am imagining—but time will tell—whether we are going to pick up from what I think is an artificially low level. We went from a high of about 8,600 in 2005-06 down to 6,312 last year. But the majority of those 2005-06 matters were tax matters. We had 3½ thousand tax matters.

**Senator LUNDY**—So you are saying that that fluctuation is contributing to keeping you above water at the moment?

**Mr Humphreys**—I am in less trouble than I would be.

**CHAIR**—If you had had 8,000-plus matters you would have been unable to cope?

**Mr Humphreys**—We are not coping with our time frames at the moment. Our time frames are going slightly backwards.

**CHAIR**—Are time frames one of the areas that the efficiency dividend does show in—for example, in delays in service delivery and for the recipients of your services?

**Mr Mathieson**—Inevitably it will have to. At this stage, at least in relation to the Federal Magistrates Court, I do not think that we are seeing that impact. I think we are seeing more the impact of the increasing workload that comes from other sources, including the change in the family law system brought about by the number of appointments in the Family Court not having been replaced but being replaced as federal magistrates in lieu and the impact of the government's injection of large amounts of money into the front end of the system through family relationship centres and so on.

To try and put that into context, over the last three full years our judicial officer filings have gone up some 31 per cent. What I mean by that is that we have something like 34,000 divorces per year but they are all dealt with by registrars. It does not require the involvement of a judicial officer. We try and distinguish between the work that really is judicial work as opposed to something else. So we have had a 31 per cent increase in 2004-05 in our court. About 49 per cent of the family law work nationally was filed in our court. It is now up to 79 per cent, just depending on what type of application you are actually looking at. So there has been that vast increase in the work that is being dealt with in our court; at the same time, there has been a reduction in the number of Family Court judges and an increase in the number of federal magistrates.

**CHAIR**—So it could be cost-shifting from the Family Court.

**Mr Mathieson**—Correct.

**CHAIR**—And how many go back to the Family Court, don't stay with you? What is the trend there?

**Mr Mathieson**—I do not remember that figure.

**CHAIR**—That is all right.

**Mr Mathieson**—What I can say to you, though, is that those numbers that I referred to before are after adjustment for transfers.

**CHAIR**—Okay. Thank you.

**Mr Mathieson**—Just to complete the picture, we also have shared jurisdiction with the Federal Court in what we call general federal law work. Again, over that same period, that work has gone up by seven per cent.

**Mr Humphreys**—Madam Chair, I might just give you some information. You asked about the sort of cost. We had the Oakton consulting group come in and do a review of our IT system recently. They indicated that we were significantly underspending on IT. They said that, to bring us up to industry benchmark levels—and this does not include the capital costs of going and buying other modules—we would need a capital injection of \$840,000 and we needed \$905,000 per annum thereafter for ongoing costs to bring us up to acceptable industry standards. Basically, they said I needed to employ another six IT staff.

**CHAIR**—Yes, I do wonder. Across all our hearings so far we have found there is a higher need for technology to change and if you are in an engagement industry you do have to use the methods that are going to increase engagement and reduce costs and therefore be more efficient. So you would all agree that investment in IT to improve your efficiency and your service delivery is underfunded?

**Mr Humphreys**—Yes.

**Mr Mathieson**—Yes.

**Mr Soden**—I would have to agree with that too.

**Mr Mathieson**—I am just trying to recall the figures.

**CHAIR**—You have identified clearly more that you would like to do. Is there more that you could be doing, both the Federal Magistrates Court and the Federal Court?

**Mr Soden**—From the Federal Court's perspective, we could bring forward and accelerate the delivery of the complete suite of e-services if we had more money. At the moment we have to do it over a period of time because we do not have the money to make the investment—

**CHAIR**—So you are phasing it in.

**Mr Soden**—and we have to phase it in over a period of time.

**CHAIR**—Your point about the ongoing costs—you are probably not factoring that in at as high a level as you might like to.

**Mr Humphreys**—From the moment you bring them in you have got to maintain them.

**Mr Soden**—But there is an important point I would like to make. One of the perceived solutions to the issue of IT expenditure is to collect a whole lot of needs and use that broad collection of needs to go out to the market to produce a huge supplier.

**Senator LUNDY**—They tried that.

**Mr Soden**—I am not convinced that would work—

**CHAIR**—It was a disaster.

**Mr Soden**—I am not convinced it would save money, and what it would certainly do is obliterate, from my perspective, our innovation capability.

**Senator LUNDY**—That was the importance of the dialogue we had earlier about capacity to innovate, because you are quite right: when it is done poorly, you remove that capacity to innovate, you remove any sense of flexibility within an organisation to move quickly and respond—and we have seen that happen. We have got about four audit reports and at least three Senate inquiries documenting that.

**CHAIR**—And in the case of agencies that had security needs—and you all have particular security needs—that could not be ensured and was certainly not being guaranteed under the systems that were being purchased.

**Mr Soden**—Can I give another good example of the risk that arises with the application of the efficiency dividend to us. It is in our ability to continue to deliver migration decisions in a 90-day turnaround time, which is very quick on any comparison anywhere in the world. That 90-day turnaround capacity arises because we presently have enough money to bring a number of judges from around the country to Sydney, where the bulk of migration appeals from the Magistrates Court are filed. We have looked at the question of whether it is more efficient to bring the judges to Sydney at travel expense or to do it by videoconference from Sydney back to their locations; it is actually less expensive to bring them to Sydney.

**CHAIR**—So you have done the costings and you have found the travel costs are less than the costs of bringing in the technology?

**Mr Soden**—We have one of the best videoconference systems in the world, not in terms of cost and technology but in terms of the extent of its use. But there is a limit to the number of facilities you can use it in at the one time.

**CHAIR**—Where is it actually in place?

**Mr Soden**—In the courtrooms.

**CHAIR**—In every courtroom?

**Mr Soden**—No, in some courtrooms, not every courtroom. So you are limited by the amount of equipment you can use in a videoconference sense, and it would be much more expensive to fit all the courtrooms with videoconferencing and incur the usage charges than it is to bring, at cost, judges to Sydney.

**CHAIR**—I think about that a lot in terms of these hearings. Each state parliament does not have those sorts of facilities. You do wonder sometimes if you could just bring members to the one place and do it. So I am interested in how rigorous your appraisal was. Do you think that was reliable?

**Mr Soden**—I think so. Yes, I believe so.

**CHAIR**—I suppose in the future we will be costing travel costs under different criteria as well.

**Mr Soden**—An important factor is that we believe you can deal with many more cases with the judge in court—

**CHAIR**—With direct contact.

**Mr Soden**—With the direct contact—than you can with the same amount of time in a videoconference.

**CHAIR**—It is an element that is hard to replicate.

**Mr Soden**—If we cannot continue to afford that, because of reducing budgets and reducing capacity to incur that cost, that would have a ripple effect right through the system. Any perception that there is a delay in our court would be likely to attract more cases in the Magistrates Court or more cases in the tribunal and it would have a concertina effect; it would be a vicious cycle and it would produce delay on delay. At the moment the investment minimises delay.

**CHAIR**—What have your travel cost budgets been like over the last three to five years? Have you been using that area to gain efficiency and make savings?

**Mr Soden**—We have targeted our travel costs continually to reduce those costs and minimise—

**CHAIR**—I think the Family Court said that they all travelled economy now. As someone who has classless travel between Newcastle and Canberra, I am quite used to that.

**Mr Foster**—I think the Family Court example is between Sydney and Canberra. The Federal Court's travel budget is in the order of about \$3 million a year. Again, we actually analyse that in terms of judicial travel versus the back-of-house corporate travel and things like that. Certainly a lot of our focus has been in trying to rely on maintaining the front service of the court. A lot of the cost cutting, whether it be travel et cetera, is in the corporate area. You ultimately have to prioritise where the services need to be provided, hence a focus on some of them.

**CHAIR**—It is not that simple just to save money on travel budgets.

**Mr Humphreys**—It is difficult. We go to lengths. I have to go to Canberra for a meeting tomorrow. I have to drive down. It is cheaper and it is also more convenient. It is far better for me to drive to Canberra, because two of us are going to go down. If I have to go to Senate estimates hearings I drive down. If we bring people in for any of our education matters, we provide them with lunch—sandwiches—because it is cheaper than paying them TA. If we get a group of members in for committee meetings or whatever we block-book hotel accommodation. We do that on the basis that we do not pay them TA; we only pay them the other things. We target everything that we can.

**CHAIR**—So are those some of the benefits of the efficiency dividend?

**Mr Humphreys**—No. It is a case of: we will look for every saving we can.

**CHAIR**—It is being miserly, not just efficient!

**Mr Humphreys**—It is extremely difficult, particularly when talking about quasi-judicial officers who have the same travel entitlements as do you, Madam Chair, and as judges do. If they are going to an external conference, the approval is on the basis that they travel economy.

**Senator LUNDY**—I have a couple of questions. Firstly, in relation to IT and broader corporate services, is there any pressure being brought to bear from Finance to look at consolidating those services in some kind of cluster?

**Mr Foster**—A number of reviews or works in progress are happening at the moment. We are not quite sure exactly what the outcomes of those will be. We have been asked for a range of data. We have been asked for opinions about the way things work. It is a little bit of waiting and seeing at present.

**Senator LUNDY**—Is that related to the Gershon review?

**Mr Foster**—Partly, yes.

**Senator LUNDY**—In terms of the coming security compliance with ACSI 33 and the *Protective Security Manual*, can I ask the AAT and also the other groups here if they can identify the cost of becoming compliant.

**Mr Humphreys**—It is \$1.8 million.

**Senator LUNDY**—Thank you. Anyone else? Does everyone else comply?

**Mr Foster**—In part.

**Senator LUNDY**—Okay. I am happy for you to take it on notice but I think it is a good example.

**Mr Foster**—The broad issue of security is one that has heightened no doubt over the last few years. We had, as you may be aware, a security issue in one of our buildings not too long ago that made the front of the news in Sydney. That was down in William Street here in Sydney. The court is always in that situation of making a call at a point in time as to the costs and benefits of actually proceeding down a certain path. In relation to our William Street premises, we have not put X-ray scanning in the building, as that example was about. We have now had to put administrative arrangements in to actually overcome how we might proceed with the premises in the future. The security issue is always one that is under review with our areas, also in terms of the security we partially do not comply with. It is, again, something that we are very conscious of.

**CHAIR**—So you made the compromises on a risk basis?

**Mr Foster**—Typically.

**CHAIR**—Could you provide that information? We are not asking for a lot of additional information but I think it would be useful to provide that on notice.

**Mr Humphreys**—Do you require—

**CHAIR**—You have already given yours.

**Mr Humphreys**—I thought I could go away quietly!

**CHAIR**—We do not need you to identify where and how much, just a total figure in terms of the percentage of compliance or what areas still do not comply and what that cost might be, because we have to recognise that security has been a cost burden that has increased.

**Mr Foster**—It is very interesting that that incident at 80 William Street not so long ago was the lead item on Channel 9 news. That was just a few months ago. It is important to note the assumption that that news item gave, which was that there should be airport type security for all court premises, and it was a big issue that there was not.

**CHAIR**—Expectations have risen.

**Mr Soden**—I can recall two years ago that there was a lot of controversy about whether or not those types of facilities ought to be included in court buildings. The interesting thing about 80 William Street is that it is a temporary commercial premises that we are now using. That is connected with the refurbishment of the Sydney Law Courts building. We know that the owners of that building are a little bit concerned about us installing security in their lobby because there are a lot of commercial tenants in there. So it would be very difficult for us to have a special—

**CHAIR**—It would be difficult to justify spending it if it is not long term.

**Mr Soden**—As Mr Foster said, we have had to look at other mechanisms to minimise the security risk in that building, as opposed to incurring costs.

**CHAIR**—Do you experience attempts to bring weapons et cetera into the courts?

**Mr Foster**—Each of the locations in the Law Courts building provides security reports. I would not call them weapons, but prohibited items are regularly identified.

**Mr Soden**—The big change that I think has happened is that the key issue is about the public feeling confident and safe inside the courthouse. That is a change of approach to one that is much different to what it might have been in the past, when it was for the protection of the normal occupants of the building. One of the greatest risks that we would have to the proper administration of justice would be if, for example, a witness in a criminal proceeding was fearful about coming into a courthouse, about feeling safe inside that courthouse. That would be a terrible result. The cost of security needs to be considered in that context.

**Senator LUNDY**—We might do a media search on that incident so we can have that as evidence in the inquiry.

**Mr Humphreys**—It is important to note that we are only in Commonwealth law court buildings in two locations: Brisbane and Hobart. In the other locations we are in commercial tenancy buildings. That has an impact because we are subject to market forces in relation to rent. We do not have airport type security in those locations, and the figure I quoted to you does not include the installation of that. In fact, it would be physically impossible to install that in a commercial building because of the way the access and egress are structured. What it means is that if we have a matter that we identify as being of potential concern we will go to a Federal Court building or, if we go out to Parramatta, we have been very grateful that we can get access to the Family Court, where we will then hold the proceedings. But that does not alleviate the possibility of the unexpected, and we just have to risk manage that.

**Mr Mathieson**—To return to your question, Madam Chair: to my knowledge, the Federal Magistrates Court is compliant with the IT security requirements. I can say that with a little degree of confidence, but I would like to highlight another issue to do perhaps with the efficiency dividend. Several years ago—I do not remember exactly which year—we received funding to enable us to become compliant but, because our IT is in fact supplied by the Family Court, to be compliant we had to rely on the Family Court to make the necessary changes. However, even though we got funding because we were a minor agency in the rules at the time, they were a material agency in the rules of the time and they did not. So they had to find that funding internally, which impacted on their capacity to fund their efficiency dividend, whereas ours was not affected.

**Senator LUNDY**—That is very interesting. I think it would be useful for us to go back and review the integrity of Commonwealth information and IT security report and the government's response to recommendations in that report on this issue. Going back to building costs, what analysis have you done with respect to the potential increase in costs come July 2009?

**Mr Foster**—The National Building Management Committee, which has the representatives of each of the jurisdictions, has that as a standing agenda item for our quarterly meetings. We have some of our own information, provided by independent sources, as to where we think the market is moving. We will be using that, obviously, in future negotiations with the department of finance. We would still say, even in these hearings, that it is somewhat commercial-in-confidence—

**Senator LUNDY**—Sure.

**Mr Foster**—because the department of finance will have their figures, we will have ours and, hopefully, we will meet somewhere.

**Senator LUNDY**—Okay. I will leave it that then.

**Mr Foster**—But it certainly is an issue that we are across.

**CHAIR**—Solutions that have been put forward include exemptions of certain items or exemptions of small agencies. We would like each agency to put forward best-case solutions for you, and we will assume you are not going to get total exemption.

**Mr Soden**—We in the Federal Court acknowledge the efficiency-producing logic of the application of the efficiency dividend, but we seek the committee's support for relief or exemption, particularly concerning the fixed components of our costs. We have no difficulty with the logic; we have applied it for a long time. But we are at the stage now where the application of it to all of our costs does produce what we call the double-whammy effect and we are seeking relief in relation to our nondiscretionary costs.

**CHAIR**—Thank you.

**Mr Mathieson**—I would agree with that. The only distinction I would make is to highlight the slightly different position that the Federal Magistrates Court is in because of the way it was originally established. The current funding that the court has for this year is \$74 million, made up of \$55.8 million in appropriation and \$18.2 million in services received free of charge from the Family Court. That \$18.2 million is not real money at all, at least from the point of view of the Federal Magistrates Court. It is a paper entry.

**CHAIR**—So you do not get it and then pass it back.

**Mr Mathieson**—No, it is a paper entry. It is funding in the hands of the Family Court.

**CHAIR**—Does it reconcile with the actual service delivery? Does it pass between you?

**Mr Mathieson**—It is indicative; I think that is the best you could say about it. The impact of that is that whilst we are really in the same situation that you have heard about with the others, where we have about 50-plus per cent of our costs that are fixed, if you add on that extra component that we have no control over then our fixed costs jump to something like 85 per cent, so that we are attempting to fund the efficiency dividend fully out of 15 per cent of discretionary funding. So, yes, we would agree, but we are slightly unusual.

Madam Chair, you have heard a couple of times about double whammies. In that context, I throw in the point that our situation is probably that we get a triple whammy as a result of the efficiency dividend—

**CHAIR**—That sounds like an ambit claim to me. But, anyway, go ahead.

**Mr Mathieson**—because the Federal Magistrates Court relies to a very large extent—we also receive about \$8 million in value in terms of the Federal Court, but that funding has been transferred—on the registry services that are provided by the superior courts. We are in a situation—as we are all in now—where there has to be a reduction of services. The trend, perhaps, if the situation goes on long enough, is that all of the courts will be wanting to preserve the key services to their decision makers—their judicial officers—and if there is a greater reduction in the areas of registry services then it will impact not only on the court delivering those services but on us.

**CHAIR**—So you think it will impact on you disproportionately—that you will get the least amount of services.

**Mr Mathieson**—Disproportionately, yes. That is correct. It is not because they will be withholding the services; it is simply—

**CHAIR**—You could not say that it is going to happen.

**Mr Soden**—No, Madam Chair. I think my colleague would say that there is no evidence of that. We certainly have made a strong and ongoing commitment to support the registry services of the magistrates court. I have to say on the record that we have not looked at the possibility of maintaining our services to the detriment of the magistrates court services.

**CHAIR**—As we would expect. AAT witnesses, do you have some solutions?

**Mr Humphreys**—I do not know that I have solutions, but I have, perhaps, some comments.

**CHAIR**—You did mention in your submissions that accrual accounting left you with some residual deficits. Is that what you implied?

**Mr Humphreys**—I think what we were saying is that the way that the system works at the moment can work to the detriment of a small agency. We talked about the number of situations whereby one has depreciation funding, where funding is not fully funded and we have been left holding an issue. It has worked very much to our disadvantage. We would suggest that we are entitled to a significant fill-up on depreciation funding as part of any renegotiation of our funding base. I certainly join with my colleagues in relation to the fixed costs. I regard fixed costs for us as including rental, plus our members' remuneration, which is set outside. I think there are a number of other costs which are relatively fixed and which we cannot reduce.

What I would also say to you, however, is that there needs to be a major rethink of the NPP process for small agencies, because the reality is that it is not delivering funding to agencies for proper well-thought-out and well-argued projects—which are seen as being chicken feed, or less than that.

**Senator LUNDY**—It is not resolving anything that is ongoing, anyway.

**Mr Humphreys**—It is simply not working for small agencies.

**CHAIR**—The Department of Finance and Deregulation will be presenting to us shortly, so we should make sure that we get some data from them on whether there is evidence that there is less money for—

**Mr Humphreys**—Some of the stuff that we are putting up is what I would call basic services and compliance with government standards and the expectations of the electorates and the people of Australia—and we do not seem to be getting anywhere.

**Senator LUNDY**—Is electronic records management compliance an area that you are able to keep up to speed?

**Mr Humphreys**—We do not comply with the Archives Act. We estimate that we would need \$800,000 to put a project in to get us up to proper compliance with the Archives Act.

**Mr Mathieson**—In the case of the Federal Magistrates Court, we do not comply with a number of requirements in that area.

**Senator LUNDY**—The Federal Court?

**Mr Mathieson**—Correct.

**Senator LUNDY**—Compliance with the Archives Act?

**Mr Soden**—We have had ongoing negotiations with the Archives authority in relation to our records and the way in which we maintain records. I would like to take that question on notice, because I am not sure that we would—

**Mr Foster**—We meet through a process of trying to work through our compliance and then accepting records from us.

**Mr Soden**—We are having a discussion with them in relation to their compliance criteria.

**Senator LUNDY**—Just for the record: I am on the Archive Advisory Board. So I am very interested in and have asked lots of questions over many years about the capacity of agencies to comply. There are a whole range of issues, one of which is your resources to do so. I will be very interested to—

**Mr Soden**—Also, there are archives issues relating to records of the court as opposed to archive issues relating to administrative information maintained by the court. We are having discussions with Archives in relation to how we can manage both those issues.

**CHAIR**—Mr Foster, although the lead agencies have spoken, is there any area that you think needed to be added in terms of better application or non-application of the efficiency dividend?

**Mr Foster**—Not that has not been spoken about.

**CHAIR**—Unless there is anything more that you wish to add, that concludes our inquiry with these agencies today. Thank you very much for presenting. It is a case where expectations keep rising. We are going to try very hard to put forward some good solutions but whether or not they are accepted remains to be seen. Thank you very much for giving us a much more realistic picture of the challenges you all face. Good luck.

**Mr Soden**—Thank you for the opportunity.

**Proceedings suspended from 12.53 pm to 1.46 pm**

**WEISBROT, Professor David, President, Australian Law Reform Commission****WYNN, Ms Sabina, Executive Director, Australian Law Reform Commission**

**CHAIR**—I welcome representatives from the Australian Law Reform Commission. We have covered some interesting areas this morning with other legal agencies. For your information, because there is only Senator Lundy and me here today, parliamentary privilege does not attach to these proceedings, and the transcripts will be formally adopted by our full committee next week when we return to parliament. Do you wish to make an opening statement to the committee?

**Prof. Weisbrot**—Thank you very much, Chair, for the opportunity to speak to the written submission that we made. I might just take one step back from that and explain a bit of the context of the budgetary position. I think that makes the effect of the efficiency dividend a little clearer. We get a one-line allocation, like many agencies, from the federal government. Our structural position in terms of cost is that our staffing costs go up by about four per cent a year or a little bit more under our enterprise agreement; our rental costs go up by about four per cent a year under the lease agreement we have in the Sydney CBD; and our cost-of-living increases are per the norm—say, three to four per cent. So our position is that basically our fixed costs are going up by 10 per cent or more a year. Our actual budget allocation goes up by mysterious figures like 1.88 and 1.73 per cent and those kinds of things, so it never matches the structural increase. So we are forced to be very efficient inherently by that situation.

Unlike some other parts of the government, I guess we do not have many opportunities for bringing in income outside of our allocation. We run the occasional conference and we sell some publications, like reports and our journal, *Reform*, but that is very limited. We cannot really do consulting work or any other kind of private work because of the conflicts of interest that would present in the ‘frank and fearless advice’ that we have to provide government, which often involves sensitive balancing of commercial and public interests.

Like most small agencies, we are very much a people organisation: more than 60 per cent of our budget goes on salaries. Most of the rest of that goes on rental. We have a small amount that is allocated, of course, to equipment.

Given that we do a very large amount of consultation, I am always surprised at how minimal our travel budget is. We all travel economy class all the time. Even though the award for commissioners is more significant, we would rather use our budget directly for the purposes for which it was intended. So we try to be very careful and then it really comes down to the effect on people.

Our staffing complement has gone from 30 in 1995-96 to 20 in the last reporting period. To some extent that is genuinely a matter of our being more efficient. Advances in information and communications technology mean that we do not have so many people who do secretarial work or filing work. We do not need research assistants, we just google stuff, so we are more efficient. But at a certain point, of course, we reach concerns about critical mass and so we have to have inquiry teams who handle all the research and consultation. We need a core amount of staff to do

that. Having said that, we are probably in a slightly better position than some other organisations, because we can control our own workload a bit more. We work on major projects, usually two at a time. We are not a complaints handling body, unlike the Ombudsman or regulators; we are not driven by external complaints coming in. Our trade-off, though, is time for people. If we have fewer staff members, it will take us longer to complete a project, but it will still be completed to a high degree of quality.

At this stage, however, we are reaching down to, I think, eight. In our last reporting period we had 10 senior legal officers but, as a consequence of the extended efficiency dividend in the current financial year, we are down to eight full-time legal officers and one part-time legal officer. I think if we got much lower than that it would be very hard to maintain the kind of workload that we do presently.

**CHAIR**—Thank you. You do make the point in your submission quite well about the impact of the efficiency dividend; but, just before we look at that, you said you try to look at two major projects a year. You usually have those underway. Are they generally references from the Attorney-General or from others?

**Prof. Weisbrot**—They are always references from the Attorney-General—

**CHAIR**—So you do not take any other references.

**Prof. Weisbrot**—No. Sometimes those are multidisciplinary or multiple departments. So, for example, I will work on genetic information. That was a reference from the Attorney and then Minister for Health and Ageing. It would have to have the Attorney's signature for us to be able to do the work.

**Mr Foster**—Are the two constant, so you generally do have two major ones a year?

**Prof. Weisbrot**—That has been our workload in modern times, certainly since I have been president over the last nine years. In earlier times, the ALRC worked on more projects but over much longer periods. We tend to be given two years for the humungous projects, like privacy, or one year for the more contained ones, like legal-professional privilege or freedom of information. In previous times, you might be aware—I am not criticising the earlier commission; it is just a different way of working—they spent seven years doing Aboriginal customary law, six or seven years doing evidence and so on. So they worked on more things but over a much longer period of time. I think, for at least 10 or 12 years now, the trend has been for us to do two projects but with very defined and pretty tight timetables.

**CHAIR**—So you have never had to say no to an Attorney-General?

**Prof. Weisbrot**—It is a negotiated process. I have never said no but I have sometimes said, 'It would be better if that project could slide in a few months later or six months later'—something like that.

**CHAIR**—You had a table on your appropriations—how much you receive from appropriations. The efficiency dividend has been in place for a long time. In 2005-06 you

managed a 2.2 per cent increase. Did you apply for any additional moneys in that year? Did you sack everybody and not replace them for a while? What happened?

**Prof. Weisbrot**—There was one year—and I think it is probably reflected in that—when we did the project on genetic information, when we received an additional appropriation from the department of health in order to do the extensive consultation. I think we received an additional \$300,000, and that allowed us to employ or maintain some additional staff at that time.

**CHAIR**—Do you try to negotiate that each time? If the reference came from a particular portfolio, do you try to negotiate some additional moneys from that portfolio area, agency or department?

**Prof. Weisbrot**—That is relatively unusual. We do try but, as far as I can recall, that was the only time we had an additional appropriation.

**CHAIR**—That explains why there was an increase.

**Prof. Weisbrot**—There is also a general point which may or may not be reflected in these particular figures: we have the ability to hire more senior or more junior staff, so there sometimes may be some trade-offs there—you may replace departing senior staff with one or two more junior people, and that bumps the numbers up.

**Senator LUNDY**—I was going to ask for more detail about the impact on inquiries generally of the ongoing pressure on your budget. What decisions have you been forced to make with respect to your inquiries? Have you changed your habits in terms of the research that you do or how you do your work because of the ongoing budgetary pressure? Could you just elaborate on that a little. For example, do they take longer et cetera?

**Prof. Weisbrot**—Primarily it would be trying to adjust the time frames. Normally in any inquiry we operate in three stages. We produce an issues paper which explains to the community what the terms of reference are and what we see as the big issues. It includes some preliminary research. Then we issue a discussion paper, which is in effect a draft report. It includes a lot of the research and consultation that we have done and has proposals for reform so we can get direct feedback on those, not general policy suggestions. Then we produce the final report and recommendations. I note that some commissions around the world have moved away from that, with financial pressures, to two documents. We have not done that. We have stayed with our formula because we think it is important that we get the maximum community consultation and, we think, the best policy advice at the end of that by operating in that iterative way. We have not had to compromise that at all. We have not compromised, I think, the quality or the extent of the scholarship or indeed the consultation. We have just finished the most extensive community consultation on privacy ever in the commission's history. We had 250 meetings, we received about 600 written submissions and we ran lots of workshops and roundtables that were dedicated to particular issues, such as privacy and the business community, privacy and children, health privacy, credit reporting and so on. We did have to go to the government and ask for an extension for several months, and I think that was in part to do with having the people in the office to do the work.

**CHAIR**—That was a time extension?

**Prof. Weisbrot**—Yes. Partly, that is of course also occasioned by other people's efficiency dividends, because some of that lateness in producing comes when we get submissions from key stakeholders, often government ones, fairly late—much later than we would like. That is a flow-on problem from others. It is similar in the project that we have just started, on secrecy provisions in federal legislation, which is, I guess, part of the package of open and accountable government measures that we have been looking at over some years. The ALRC, of course, did the major report on freedom of information. We did the report on classified and security sensitive information. Some years ago we did the archives report. We did a little bit of work on freedom of information more recently and on privacy, of course. So this is kind of a piece in the puzzle. I think previously I would have asked for one year on that project, and in fact we asked for and received a 15-month timetable. That was largely out of concern around having enough staff to be able to accommodate that.

**CHAIR**—So it would be fair to say that inquiries are taking or may take longer?

**Prof. Weisbrot**—I think so. It is, again, very much determined by the people we have in the office. You can only ask so much of our already very dedicated and hardworking legal officers. If they are each doing, say, four or five chapters and covering a major block then, if they have to take on another area, that is going to be at the expense of time rather than, we would hope, quality.

**CHAIR**—Do you think quality has reduced?

**Prof. Weisbrot**—No, I do not think so. I do not think the quality of the reports has been compromised at all. It is probably more around the edges that things start to fray. The reference work is the core of what we do, and I think that is what we put our last bit of energy and resources into. It is the other little bits and pieces. We run fewer conferences than we used to, because that is always exhausting and takes time and energy from staff. We are probably not as fantastic as we would like to be in updating or improving our website. It is those kinds of things around the edges that, at the moment at least, we put to one side rather than compromise the quality of reference work.

**CHAIR**—You say that, obviously, one of the areas where you have effected savings is staff levels and staff payment. You suggest that salaries in your agency are reducing against the Public Service agreement and that, while some agencies—larger ones—can provide those higher salaries, you cannot. What impact is that having on your staff—the people you are employing?

**Prof. Weisbrot**—It obviously has an effect on the individuals if they live in Sydney and have to pay Sydney type mortgages. I cannot say, really, the extent to which it affects recruitment, because we have not been recruiting recently, much as we would like to. I think people make trade-offs. Our staff tend to come from one of two directions. There are people in other parts of the Public Service who like the research and policy-making work that we do; close to half our staff would come from that. Probably the other half come from the private sector, mostly the major law firms, where they are taking a huge salary cut to join—no matter what we paid in Public Service terms, they would be taking a huge salary cut—but they get their lives back.

**CHAIR**—I suppose that could be so. Do they stay with you? What are your retention rates?

**Ms Wynn**—They are pretty good, actually. They do stay.

**CHAIR**—They tend to become specialists?

**Ms Wynn**—Yes.

**Prof. Weisbrot**—Yes. It is fairly good. We do not have a high turnover. There is a natural turnover. If people have been there eight or 10 years, they may be looking in the normal course of things to do something else, but there is not a high turnover at all.

**CHAIR**—Have you done any comparisons between you and a similar agency to see what salary levels are like or do you already know that?

**Prof. Weisbrot**—We did that when we were negotiating the last enterprise agreement, and we were lower. In our previous agreement, the staff made a conscious decision to take a lower than norm increase per annum. It was three per cent.

**CHAIR**—To retain staff numbers?

**Prof. Weisbrot**—Yes. So they took three per cent as against 4.2 or 4.5 in most other agencies, and that was very consciously to try to preserve staff numbers. Given that they had fallen behind so substantially, in the most recent enterprise agreement, which took effect relatively recently—

**Ms Wynn**—Yes, just this year.

**Prof. Weisbrot**—we went to 4.2 per cent, which is pretty much the norm, although it did not build back the difference in the previous agreement.

**CHAIR**—You also made the point in your submission that rent in a capital city is rather high and that you know of a tenant in the same building paying seven per cent less. People do think they have a long-term tenant—the Commonwealth government—and that therefore they can charge more, and you would have no influence on that at all; that would all be done by the Department of Finance and Deregulation.

**Prof. Weisbrot**—No, we did that ourselves.

**CHAIR**—You negotiated that?

**Prof. Weisbrot**—Yes, and I was surprised to find the authority I had to sign a huge lease agreement without anyone's cosignature.

**CHAIR**—Oh, dear!

**Prof. Weisbrot**—No, we did that ourselves—

**CHAIR**—Better not tell the Auditor-General about that!

**Prof. Weisbrot**—and we hired a property consultant and actually got what was an excellent deal at the time and is still an excellent deal for a small agency. I do not think it is the Commonwealth factor that is significant; it is really more the size. We are taking half of one floor in a major building. Macquarie Bank has steadily colonised—

**CHAIR**—So you would expect that if you can only take up that amount of space there may be a price differential, that you may have a price burden because of that—

**Prof. Weisbrot**—Absolutely.

**CHAIR**—if you want it in a prime and secure building et cetera.

**Prof. Weisbrot**—Yes. Macquarie Bank, which is the body that is alluded to there, has many, many floors in our building and so they can command. We more or less replaced part of the holding of a large law firm when we moved in. They had had six or seven floors, so when they moved out the building was quite keen to get us in, so I think we got what would have been a good deal at that time.

**CHAIR**—That does not affect the amount of money you are given in appropriations, though, does it?

**Prof. Weisbrot**—No; we did not receive any particular supplementation.

**CHAIR**—There is no differential for capital cities or a loading that recognises high rents?

**Prof. Weisbrot**—Not that I am aware of—not explicitly, certainly. We have had more or less the same budget, except as affected by these things we are talking about, over some years now.

**CHAIR**—You suggest in your submission that the efficiency dividend in its application to small agencies, and particularly to very small agencies, has a reverse impact. You suggest that, because there is so much that you have no discretion over, the only area you can cut would be core functions and core operations. Is that the experience of the Law Reform Commission?

**Prof. Weisbrot**—Yes, and I think that was our motivation for putting in a submission as well. We know we are operating under the same circumstances as others, and we did not particularly want to whinge about it. It really is about the blunt application of that instrument on small agencies. We have very little flexibility. In terms of rental or purchase of equipment, we are not bulk purchasers so that we can achieve those kinds of economies of scale. We do not have other opportunities for earning money. We cannot defer the purchase of a battleship from one financial year to another. So, given that we have those significant fixed costs, we have very little flexibility in our budget to adjust.

**CHAIR**—We have asked questions about bulk buying and procurement policies and whether those options would save you money—the same with IT. Most agencies like autonomy and discretion over their own purchasing, whether it is travel, IT, administration, stationery or whatever. What is your view on that? Do you think there are savings that could be made through aggregation or would you prefer to have discrete operating autonomy?

**Prof. Weisbrot**—If the Australian government or a department were a bulk purchaser I am sure they would get somewhat better prices than we did. It would still be a relatively minor factor for us, given that that would account for a small—

**CHAIR**—Yes, you use an example with your travel: even if you were to save 40 per cent of your travel costs it would still only gain you point zero something in savings.

**Prof. Weisbrot**—Yes, and similarly with IT: there may be a 10 per cent advantage, say, in bulk purchase through a department, but 10 per cent of almost nothing would be almost nothing.

**CHAIR**—You employ two people for IT communications. What services would they provide?

**Prof. Weisbrot**—The internal people?

**CHAIR**—Yes.

**Ms Wynn**—Back-up, troubleshooting—

**CHAIR**—Overhauling systems and refreshing them.

**Ms Wynn**—Refreshing them, installing software, managing the file server—all those sorts of things

**Prof. Weisbrot**—And the website maintenance and updating.

**CHAIR**—If they get time for that.

**Ms Wynn**—Yes.

**Senator LUNDY**—How has the impact of the efficiency dividend affected morale in your organisation?

**Prof. Weisbrot**—I have to say it is the happiest office I have ever worked in, so it has not been too detrimental to date—

**CHAIR**—The secret ingredient.

**Prof. Weisbrot**—and I think that is because we have not had to let people go; as natural turnover has occurred we have either not replaced people or replaced them at a lower level. I think it would be pushing it to go below the level we are at now. You cannot do that ad infinitum. There is a critical mass that has to be present to do the core reference work, and I think we have pretty much hit those kinds of numbers now. Considering people are there largely because they want to be and the quality of the work is so interesting, that maintains morale in a way that might not be present if it were more of a processing job.

**Senator LUNDY**—Okay. Thank you.

**CHAIR**—You say that quality has not been compromised at this stage.

**Prof. Weisbrot**—I do not believe so, no.

**CHAIR**—Do you think there has been any impact on your reputation or the status of the commission?

**Prof. Weisbrot**—I do not think so and I would hope not, if you look at some of the reports that we have done just over, say, the last five years. For example, the report *Essentially yours: the protection of human genetic information* is a world landmark; it has really set the benchmarks internationally for genetic privacy and discrimination and supervision of genetic research. I think the privacy report that we have just completed is one of the best we have ever done. So I do not think so, no. Certainly, the feedback from stakeholders and directly from governments and oppositions has been very supportive.

**CHAIR**—Are you able to invest in the skills of your staff and the professional development of your staff to the degree you would like to?

**Ms Wynn**—As David said, we have come now to a sort of crunch point where all of our budget really is being spent on the references and we have very little money for training, for professional development and for upgrading the website. It is becoming very much more important for our consultation processes that we can upgrade that website, but at the moment there is just not that flexibility—and it is the same for professional development. So we are at this crunch point and if we keep getting squeezed, no, we will not be able to continue with the levels of professional development that we would like.

**CHAIR**—Excuse my ignorance but, if I went on to your website and I wanted to look up a report, could I do that? Are there good search functions where I could find keywords and reference material et cetera?

**Ms Wynn**—Yes.

**CHAIR**—How would you improve it?

**Ms Wynn**—We would like to use it a lot more in the consultation processes and make it a lot more interactive, with people being able to hold discussion groups. People now expect to go to a website and not just push keys but also actually be able to contribute. The website was designed over six years ago. Web technology, as you know, has moved on, and we really would be very keen to utilise the website a lot better, but that costs money and those are the things we do not—

**CHAIR**—You cannot divert those resources.

**Ms Wynn**—No. I think the other point that we have made in the submission is about our ability to cost-recover some of our programs. While we do charge for some of our reports, a lot of the reports are made available to people for free. It is one of our functions to get our ideas and policies out there to the stakeholders et cetera, so the ability to charge and to recover costs for our services is quite minimal.

**CHAIR**—All right. Thank you very much. We have been very impressed with the submissions put in by agencies. Again, you are one of the agencies that suggest that exempting either very small agencies or exempting some components of your costs would be one way you would favour going. Do you want to add any solutions before we close this session?

**Prof. Weisbrot**—No. I think what we have suggested is basically that, yes.

**CHAIR**—Thank you very much for presenting to us today.

**Prof. Weisbrot**—Thank you.

[2.14 pm]

**ROUT, Mr Peter Gavin, Assistant Director, Corporate and Operations, Australian National Maritime Museum**

**WILLIAMS, Ms Mary-Louise, Director, Australian National Maritime Museum**

**CHAIR**—I welcome representatives from the Australian National Maritime Museum. Would either of you like to make a brief opening statement before we proceed to questions?

**Ms Williams**—Thank you. We are grateful for the opportunity to come forward with some suggestions and a response on the issue of the efficiency dividend. We are a very small agency. We are the only Commonwealth cultural institution in a capital city outside Canberra. We are on a very high profile site in Sydney Harbour. We are 20 years old now and so a lot of our services are beginning to need replacement. We have 700 volunteers, which I think is a record in Australia. We have 500 of those on site at the museum and about 250 out-of-port volunteers. As it is, those people really do save the Commonwealth a lot of money because they perform a lot of very important services to interpret the collection to people who visit. This year we had about 460,000 people through the museum. That was our third highest number of people on site. For three months out of the year we actually beat most of our Sydney competitors, some of whom are about three times as big as we are and better resourced than us.

So I think it is fair to say that we are an efficient organisation. Because we are reasonably new we were brought up on the theory of really being commercially aware and business savvy, and we are. We raise about \$6.2 million a year in non-government funds. Again, I think that is probably very high compared with a lot of agencies of a similar size.

**CHAIR**—What percentage is that?

**Ms Williams**—It is about 33 per cent. In real terms the efficiency dividend to us is really the thin end of the wedge because like other agencies we suffer from a four per cent increase in costs of services. Similarly, we have a four per cent a year increase in costs for salary expenses. We are already suffering from the 1.25 per cent dividend that we have had for years, so the two per cent is very difficult to bear as a small agency.

I think it is true to say that in the past we were held up as a benchmark internationally for our exhibitions and programs. We were a new sort of maritime museum and people throughout the world looked to us for leadership in many areas. Now I can see us running the peril of falling behind, particularly in the areas of outreach as that becomes more expensive. And we do have a national role and that is really a behind-the-scenes role that we play, not just front-of-house services. We are also falling behind in our ICT strategy. There is the new media now; there are new ways of connecting with universities, colleges, the museums, libraries—

**Senator LUNDY**—Web 2.0 strategy.

**Ms Williams**—It is a better, more efficient and more exciting way of Australia maintaining a reputation internationally for its cultural services. I do not want us to go back to the days of dusty showcases where we really cannot provide decent exhibitions, let alone new services through new media.

**CHAIR**—I know something of your outreach services. Newcastle is hoping to open its maritime centre soon. I know that we have had support from you. I know how difficult it is for you to provide those sorts of services. You say that, with the efficiency dividend, this year when you take out the non-discretionary funds and you apply it only to the discretionary funds it represents an 11 per cent impost or decrease in your funds at a time when costs are not exactly minimised. How are you making allowances for that in this 12-month period? In this one 12-month period, what sorts of changes will you make to your resource level or operations?

**Ms Williams**—We had to cancel a major program we were doing in conjunction with Musee de la Marine in Paris which was a major exhibition on La Perouse.

**CHAIR**—Did that have timeliness? Was it important for it to be this year or is it something that could be held another time?

**Ms Williams**—It could be. Maybe there is a magic donor out there who is going to come forward. But we cannot rely on them and they are hard to find. We certainly could not do it this year, and we have scaled down another project as well and made it less challenging and less adventurous.

**CHAIR**—Had you committed resources to the La Perouse exhibition?

**Ms Williams**—Yes, we had.

**CHAIR**—You had not signed any contract, though?

**Ms Williams**—No, we had not. We estimated that it would cost about \$750,000, which is about the cost of the efficiency dividend difference. But that was a guesstimate, without looking for sponsorship, for example.

**CHAIR**—I imagine that the story will travel internationally that you have cut or delayed that.

**Ms Williams**—It is a small world.

**CHAIR**—It is a small world, and therefore it will impact on the reputation of the Maritime Museum. You must have also over time put in place some productivity improvements. Can you tell us some of the best ones? I know it hurts, but can you tell us some of the best productivity improvements you have been able to achieve, if there have been any?

**Ms Williams**—We are training our staff on good project management, for example, and ways in which we can save money on each of the projects. Without major incoming exhibitions—apart from our core exhibitions—we also scale them down and cut the cloth according to what we have. What other efficiencies have we done over the years, Peter?

**Mr Rout**—The museum system was something that we introduced. It is a computerised management system for the museum, which was introduced at the time of the last agreement or the agreement before. It essentially enables us to manage the collection a whole lot better than what we were doing.

**CHAIR**—And you think at this stage there will be no further advances except things like scaling back operations?

**Ms Williams**—On the discretionary funds, yes. That is the only option we really have.

**Mr Rout**—We have had three enterprise or collective agreements which have involved extensive negotiations. Our last one, in particular, took an extended period of time, trying to identify productivity improvements. We are getting to the stage where there is nothing easy with respect to—

**Ms Williams**—We have also instituted a system of continuous improvement in the museum, and we do this on a regular basis to take stock of how we operate and how we can make savings. That helps us with the next agreement.

**Mr Rout**—One of the problems, of course, is that we may institute or implement new procedures or methods for, say, putting on an exhibition but the end result is that it does not deliver one extra dollar. We will have a better exhibition or we will have it in quicker time but it does not actually save us any money.

**CHAIR**—You are, as you said, on a key site on Sydney Harbour. Do you have any interaction with the Sydney Harbour Authority?

**Ms Williams**—Yes, we run joint public programs with them on special events around Darling Harbour.

**CHAIR**—Do they fund any of those? Is there any cash flow there for you?

**Ms Williams**—Not much, no.

**CHAIR**—Very small, is it?

**Ms Williams**—I spend a lot of my time trying to attract sponsors and cash donations for the museum. Interestingly enough, one of the areas that a lot of museums face an increase in cost is through international freight. Before terrorism, it used to be a lot cheaper and freight companies were more generous. I am afraid they are now very strict and less charitable and generous—understandably so, because they have to meet certain criteria.

**CHAIR**—So you have the full cost of moving things from overseas?

**Ms Williams**—That is right.

**CHAIR**—Do you add to your collection?

**Ms Williams**—Yes, we do; indeed we do.

**CHAIR**—How is that going at the moment?

**Ms Williams**—I would like to add more to it than we do, I might add, but we have a modest acquisitions budget of about \$200,000 a year.

**CHAIR**—Has it stayed fixed over a period of time?

**Ms Williams**—No, there is a special emergency fund that we have. If something really—

**CHAIR**—A special emergency fund? I have not seen that in any of our papers. What is this special emergency fund?

**Ms Williams**—It is rarely used. It is only used on the occasions when there is an absolutely significant object that comes up and is at risk of either going into private hands—

**CHAIR**—For collections?

**Ms Williams**—Yes, for collections.

**CHAIR**—What would be an example of something that just cannot be resisted?

**Ms Williams**—About a month ago we were aware of the Charlotte Medal, which was a medal engraved on the ship *Charlotte*—one of the First Fleet vessels that came out to Australia. It is absolutely unique. There is nothing like it. There is very, very little material that remains from the First Fleet history. So this was absolutely unique.

**CHAIR**—What was the acquisition cost of that?

**Ms Williams**—In this case, we had \$200,000 that was given to us by the National Cultural Fund. That enabled us to purchase the object.

**CHAIR**—For that cost?

**Mr Rout**—The price was \$750,000 plus the seller's commission.

**CHAIR**—So you put in the rest—

**Mr Rout**—Yes.

**CHAIR**—and you needed a top-up for that.

**Mr Rout**—Yes.

**CHAIR**—Do you have any benefactors?

**Ms Williams**—We have had, but they are harder to come by now. We do have a handful who support us and who donate material to us as well.

**CHAIR**—Is that a problem—people wanting to give you things that you, one, do not want and, two, do not need the cost of restoring or exhibiting—

**Ms Williams**—Indeed. I have been offered a number of ships that I have attempted to subtly reject.

**CHAIR**—I know that often people purchase these with their superannuation funds, but the condition of doing that is that you cannot have them on your property. So you have to put them somewhere. Do people do that as well?

**Ms Williams**—We discourage that and very rarely do it. Our collection probably is different from most other collections. We have works of art in the collection, and we have bikinis and we have a destroyer. It is a very wide-ranging collection.

**Senator LUNDY**—In terms of your capacity as an organisation to grow and develop, I know—being reasonably familiar with the work that you do, which is wonderful—that there are always new ideas and new opportunities presenting themselves. How does the impact of the efficiency dividend affect that outlook of the museum?

**Ms Williams**—I think that is an important question, because we could go along and struggle harder to find sponsorship, et cetera, for exhibitions, but there is a whole new area of web technology and new media which, I think, opens up a whole new range of possibilities about connecting and communicating with communities big and small. If we do not take that challenge and accept the need to update, upgrade and embark on those collaborative projects, we quickly become very old fashioned. I think this is a very exciting time.

**Senator LUNDY**—It is, isn't it? I mentioned before that we have 2.0, which is that whole collection of interactive and social applications online. Are you doing anything in that space at the moment?

**Ms Williams**—Yes. We have just begun to do it—MySpace, blogs et cetera, and we are getting a whole new response from an audience that is notoriously hard to reach, which is the teenagers. We are getting stronger feedback from them through our online blogs, MySpace, chat rooms, and all that stuff.

**Senator LUNDY**—That is interesting. What about developments overseas in that area? Are you feeling like you are still trying to push the boundaries here, or are you now looking at what other people are doing and trying to catch up?

**Ms Williams**—We have always stood our ground pretty well, considering our resources. We have one of the most significant collections of Aboriginal art, which is called Saltwater, from Yirrkala in Arnhem Land. I would really like to get that collection overseas and show it. It is so significant, from a range of perspectives—artistic and cultural. And of course we have to pull back. If we just did not have those funds to explore possibilities for sending that collection—

**CHAIR**—And given the success of the Emily exhibition in Japan, you would think it would be an opportune time. There is a real interest overseas in Indigenous culture and history.

**Senator LUNDY**—What about funding the capital that you need to maintain the museum? You mentioned it is 20 years old, there is obviously some pressure for renewals, updating and refurbishments. How are you managing that?

**Ms Williams**—We rely on depreciation funding, of course, to maintain that asset, and we are 20 years old. Remember that we make close to \$2 million through commercial services at the museum, and they demand a certain standard. We make about \$1 million with venue hire and catering, and it is such a fantastic site—if anyone is interested, they are good rates.

**Senator LUNDY**—I think I have hired a room there at some point. It is very good.

**Ms Williams**—That requires, for example, kitchen equipment that meets standards, let alone that is good for the job—and that needs to be upgraded. We have a plan for site improvement, most of which is because we have to maintain certain safety standards and improve and extend services. We had no idea when we opened that we were going to have 700 volunteers. We have a tea room that would be half the size of this room. They like their cups of tea, and there is not much else we can offer these people who give so much of their time. We need to give them better facilities, so that needs to be upgraded.

We did not have *Endeavour* when we opened. It is a national icon. It is a seagoing vessel, and it is hugely popular. It was in Brisbane last week. It is a little ship that took 1,500 people a day. That is an incredible number of people on board. People love that ship.

**Senator LUNDY**—It is very beautiful.

**Ms Williams**—It is lovely, and we need to keep that and make sure that it can travel and reach those remote communities. That is where we spend a lot of time trying to raise money to help us. We are now trying to work out a circumnavigation of Australia—Broome, Cape York and everything—so that will be very expensive to fund.

**Senator LUNDY**—Yes.

**Ms Williams**—But important.

**CHAIR**—The *Endeavour* gives a real buzz when it comes into other communities. It really does.

**Ms Williams**—It does.

**CHAIR**—I have to say that my niece was an events manager there for some communications for some time, and it was a truly wonderful experience for the young people, who seemed to be so strongly attracted to it. Does anything else travel from your museum?

**Ms Williams**—Yes, we have two sorts of exhibitions that travel throughout Australia. One consists of the smaller and perhaps more robust exhibitions that go to little country museums and

community museums around Australia. We have slightly bigger exhibitions with more sensitive material that goes to regional museums and those museums that can take museum material. That is often with the support of Visions of Australia, which is a fabulous fund to help exhibitions move around Australia.

**CHAIR**—Does that vary or do you keep it fairly static?

**Ms Williams**—We usually have about eight on the road at any one time, so it is quite a big program.

**CHAIR**—Are travelling exhibitions an area that you are having to cut?

**Ms Williams**—In the future they will have to be if this continues, because our pie, you see, is decreasing. The government appropriations over time are really decreasing each year. We have done very well commercially, and that has helped us keep our head above water.

**CHAIR**—Are there other areas that you could do commercially? Are you at a point where you could do more fee-for-service through entrepreneurial approaches? Are there opportunities there that you are not taking advantage of? If there are, what are the reasons for that? Is it because of your limited resources or the economic conditions? What is holding it back?

**Ms Williams**—There are two pressures put on us by our masters. Understandably, they are both to get people into the museum—

**CHAIR**—Core business.

**Ms Williams**—and to raise non-government funds. To do that we established a strategy—I think it was in 2002—to actually take away the admission charge to galleries, and our admissions dollars have gone up as a result. I challenge anyone to find another museum that has actually gone free and not asked for money to supplement that difference in income.

**CHAIR**—So you would never like to see an entry fee at the museum?

**Ms Williams**—I would not, because without a charge more people come to the museum and choose to go on the ships. We have a charge to go on the vessels.

**Mr Rout**—Yes, we do charge for the vessels.

**Ms Williams**—We charge for the vessels.

**CHAIR**—So there is that embellishment of the experience if you wish to pay for it.

**Ms Williams**—That is right.

**CHAIR**—But everyone is entitled to the core experience.

**Ms Williams**—That is right.

**CHAIR**—It seems a good model.

**Ms Williams**—That was our judgement when we went free. We thought, ‘We need more people on site to buy the tickets to go on the ships,’ and that has happened.

**CHAIR**—And that has been a successful strategy.

**Ms Williams**—It has. As far as other income-raising activities are concerned, as I said, we are pretty savvy. We really are. We do try to find as many sponsors and supporters as we can for acquisitions and for programs. We have some premises at the museum that we lease out, and there is some income that we have from that. We are on a prime—

**CHAIR**—Are they leased permanently?

**Mr Rout**—They are on a five-year lease.

**CHAIR**—How about revisitations? Do you collect data on people who are coming back—not just new visits all the time?

**Ms Williams**—We do.

**CHAIR**—What is the trend?

**Ms Williams**—With every main temporary exhibition we do some tracking on visitors. I am trying to remember the last one off the top of my head. I think about 40 per cent of people came to see the exhibition because that was the subject of their interest and 60 per cent were return visitors. That proportion stays reasonably similar. There might be slight variations according to the subject of the exhibition, but it is generally about that, so that is why it is important to have—

**CHAIR**—New exhibitions.

**Ms Williams**—new and good exhibitions.

**CHAIR**—How many new exhibitions a year would you stage?

**Ms Williams**—We try to have two. We have the main one at Christmas because that is our big season—we have our really busy season in January, February and March. We tend to make that more family engaging and fun—a little bit of entertainment. Then the winter show is generally slightly more specialist oriented.

**CHAIR**—So two a year is what you aim for, and you have maintained that all the time?

**Ms Williams**—Yes, we have.

**CHAIR**—Would it be right to say that, if you cannot go ahead with something like La Perouse, then you will be doing lower cost or less ambitious exhibitions?

**Ms Williams**—It just will not be as good. We just would not be able to maintain the standard that we have been able to in the past—and Australia has a very, very good reputation overseas for what we call display technology and the way in which we interpret material in our collection. That is the stuff that costs money.

**CHAIR**—Do you have relationships with universities or research institutions as well?

**Ms Williams**—Yes. We have got collaborative programs with several universities, one of which is with the ANU to develop an online research database in relation to the saltwater collection. The more we do, the more contacts we have and the more possibilities we can see are out there on the horizon. So I think that we could do some wonderful stuff if we were able to maintain that ICT resource at the museum.

**CHAIR**—So ICT resources are really behind, you think?

**Ms Williams**—Yes, for us they are.

**CHAIR**—If you wanted to bring them up to the standard to allow you to keep that expansion and enrichment, how much money would be required?

**Ms Williams**—We are actually doing a strategy at this very moment to come up with that dollar figure, so I cannot give it to you because we have not had the recommendations, but it will mean a pretty clever use of resources.

**CHAIR**—Other cultural organisations that have presented to us said that they were all behind on the digitisation of their collections. Is that the same with you?

**Ms Williams**—Probably not to the same extent, if you are looking at the National Library and other older, more established—in this case paper based—collections. At the moment, we have a younger collection than some of the national collections, so we have been able to absorb the digitisation costs within our annual operating budget.

**CHAIR**—So you have scanned and photographed everything?

**Ms Williams**—I would not say everything, but we have got our heads above the digitisation waters and we continue to put moneys aside each year for that.

**CHAIR**—If you have just bought the Charlotte medal, that has expended a lot of your reserve, I would have thought—but it is very precious. How do you build it up again? Do you just have to wait? What if another similar item of worth came up next year? What would you do?

**Ms Williams**—We have not got much left in the coffers for this financial year. If we had more time, we would be able to go out to a sponsor or a supporter. Museums are starting to collect collaboratively too, which I think is a reasonably good move. Some of that material is highly collectible and collectors would keep it in their private collections. The idea is to get it into public hands—so whatever it takes. Museums can get together and share resources in that sense, and we need to promote the organisations to make them worth sponsoring, I suppose.

**CHAIR**—How do we build a benefactors culture? It is lacking in this country. There are many agencies that have told us that. Surely you can all put your heads together with a great strategy. I know you are all competing for those benefactors, but there must be better ways. What would you say is the best way—probably incentives?

**Ms Williams**—I wish I had the answer to that, but we need government help to do that. In Australia, people would wonder why they should support a government program. That is changing in the UK. It is certainly not the same case in the States.

**CHAIR**—It is hard to get people to donate their organs, let alone be benefactors of great works and worthy activities.

**Ms Williams**—But we have boards and we spend a lot of time and effort in talking with communities and individuals about the work of the museum.

**CHAIR**—So what do benefactors need? Do they need a whole experience? Do they need their name up in lights? What do they need?

**Ms Williams**—There are two main sorts. One likes to see it as a business transaction, as we do—

**CHAIR**—So that is incentives, tax relief and all sorts of things.

**Ms Williams**—We have a contract with them and we say, ‘Okay, you give us that amount of money and we will give you these services.’ We can do that through venue hire, for example. We give special rates, special access to the vessels, for example, that ordinary people cannot have access to. So we try to give them value for money. Then there is the other sort of sponsor or supporter, who has a passionate love of history or maritime history and wants to support the museum. There are a number of those around, I am pleased to say, but we would like some more of them.

**CHAIR**—We all wish we had the answers to that.

**Senator LUNDY**—I wanted to pick up on a point that has been a bit of a theme in your presentation, and that is that the government has applied the two per cent efficiency dividend equally to organisations that are demonstrably efficient and commercial in their function and operation and to organisations that have not evolved to that state. Can you elaborate a little more on that point? I think the question really goes to the heart of what is different about you as a collecting institution in the way that you run your business and present and innovate as far as your budget goes.

**Ms Williams**—I think I understand your question and I can say that we are different in the sense that our collection is a bit different to most in that we have a submarine and a destroyer out in the water near a very busy area—

**CHAIR**—Skiter!

**Ms Williams**—Yes! And we have *Endeavour*, of which we are hugely proud. Now, they are outside the museum, and there are a proportion of people who may not be that interested in museums, I might say, who would come along and classify those vessels as their own, and I am very pleased about that. We have the Welcome Wall as well, and we have nearly 20,000 names on that wall, which is a celebration of migration to Australia by sea. And we now have inadvertently, I have to confess, a fantastically valuable folk database of migration history in Australia because of the Welcome Wall—and it is a connection with the museum for people who, again, perhaps would not necessarily consider the National Maritime Museum to be their sort of place. We have 5,000 people twice a year who come to celebrate the Welcome Wall. It is phenomenal.

**Senator LUNDY**—Wow.

**Ms Williams**—We are aware of our other communities and we do have a good nose for business, I think. We do believe in good business practice. We are always looking for ways in which we can do something more cheaply or better or more efficiently. I do not know whether this answers your question, but we are very community oriented. We face the community; we do not put our backs to the community and we work very hard with them. We had Peruvian Day there a few weeks ago and we had, on Sunday, nearly 8,000 people and three llamas at the museum, and it was just fantastic. That is not a traditional museum-going community. So we do try to extend beyond what is imagined to be the museum community. Is that answering your question?

**Senator LUNDY**—Yes, it is. I just wanted you to elaborate on the things that you do that are, as I said, innovative and different for a museum, because museums do have a very stereotypical image, which all of our fantastic museums in Australia shatter regularly. I just wanted to get more on the record about the things that you are doing, so that is fine. Thank you.

**CHAIR**—Do you have discussions with Tourism Australia in terms of how Commonwealth government activities can maximise your presence or turnover?

**Ms Williams**—We have a marketing team at the museum, and they connect with Tourism New South Wales.

**CHAIR**—Because we cannot have the America's Cup very often, and I imagine that when those sorts of events occur you get a spin-off. Are there other events that you get a spin-off from?

**Ms Williams**—Yes. We were very fortunate when it came to the Olympic Games a few years ago in Sydney. We made a handsome little profit out of that because we are on such a fantastic site. So we take advantage of such events. If there are any round-the-world yacht races, for example, we make a point of going in and bidding to have them at least visit the museum.

**CHAIR**—Do you think the agendas of Tourism New South Wales and Tourism Australia dovetail enough, or do they integrate well?

**Ms Williams**—I think Sydney Harbour is one of the most unique parts of Australia, and we could probably take better advantage of it than we do. But that is a personal opinion.

**CHAIR**—Yes, I would probably agree with you on that. That concludes questions from Senator Lundy and me. Thank you very much for coming along today and presenting to our inquiry. It has been our pleasure, I think, to learn so much about many of the small government agencies and the contribution they are making—in spite of efficiency dividends or because of them, I am not sure. So thank you very much.

**Ms Williams**—Thank you very much.

**Committee adjourned at 2.44 pm**