COMMONWEALTH OF AUSTRALIA

SENATE

Official Committee Hansard

SELECT COMMITTEE ON SUPERANNUATION

Reference: Choice of superannuation fund

WEDNESDAY, 18 FEBRUARY 1998

MELBOURNE

BY AUTHORITY OF THE SENATE
CANBERRA 1997

INTERNET

The Proof and Official Hansards of the Senate and the House of Representatives debates, and the Proof and Official Hansards of committee hearings are available on the Internet

http://www.aph.gov.au/hansard

SENATE

Wednesday, 18 February 1998

SELECT COMMITTEE ON SUPERANNUATION

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

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

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

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

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

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

WITNESSES

CHILD, Mr Stephen, Senior Manager, Technical Services, Commonwealth Bank of Australia, Level 1, 16-24 Ellie Street, Burwood, New South Wales 2134 199

DALEY, Mr Brian John, Victorian Branch Secretary, Liquor, Hospitality and Miscellaneous Workers Union, Australian Council of Trade Unions, 393 Swanston Street, Melbourne, Victoria 3000 121

GRENFELL, Mr Colin, Superannuation Consultant and Actuary, William M. Mercer Pty Ltd, 101 Collins Street, Melbourne, Victoria 3000 147

HEWETT, Ms Helen, Fund Secretary, C+BUS, Industry Superannuation Fund for the Construction and Building and Allied Industries, Level 12, 313 Latrobe Street, Melbourne, Victoria 3000 177

HOLDSWORTH, Ms Rhonda, 27 Beaconsfield Parade, Northcote, Victoria 3070 . . 191

HOPGOOD, Ms Susan Louise, Acting Federal Secretary, Australian Education Union, 120 Clarendon Street, South Melbourne, Victoria 3205 191

NEWCOMBE, Ms Jennifer Mary, Federal TAFE Officer, Australian Education Union, 120 Clarendon Street, South Melbourne, Victoria 3205 191

PARTRIDGE, Mr Stephen Mark, Principal, William M. Mercer Pty Ltd, 101 Collins Street, Melbourne, Victoria 3000 147

PRAGNELL, Mr Bradley John, Superannuation and Financial Planning Consultant, Australian Society of Certified Practising Accountants, Level 3, 111 Harrington Street, The Rocks, Sydney, New South Wales 2000 168

RUBINSTEIN, Ms Linda, Senior Industrial Officer, Australian Council of Trade Unions, 393 Swanston Street, Melbourne, Victoria 3000 121

SUN, Mr Marc Keith, 5 Kiers Avenue, Mt Waverley, Victoria 3149 141

WYATT, Mr Murray William, Chairman, Superannuation Centre of Excellence, Australian Society of Certified Practising Accountants, 170 Queen Street, Melbourne, Victoria 3000 168

Committee met at 9.00 a.m.

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

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

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

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

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

I would also like to explain that today we are again joined by the Hon. Nick Sherry. At the moment, while Nick is not a member of the committee, he has been associated with this committee from its inception—he was the first chair—and I understand he may well be joining us some time in the future. I therefore offer an invitation for him to join us at the table, as maybe a prospective committee member, to observe the proceedings. He is not currently a member and, according to the rules of the Senate, he cannot take an active part in the proceedings. But he tells me he will be taking quite copious notes. This is why he will not be asking any questions today. I am sure this will be rather difficult for him, but no doubt his copious notes will put him in a good position to debate the issues in the Senate and in the other forums.

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

[9.04 a.m.]

DALEY, Mr Brian John, Victorian Branch Secretary, Liquor, Hospitality and Miscellaneous Workers Union, Australian Council of Trade Unions, 393 Swanston Street, Melbourne, Victoria 3000

RUBINSTEIN, Ms Linda, Senior Industrial Officer, Australian Council of Trade Unions, 393 Swanston Street, Melbourne, Victoria 3000

CHAIR—I now have the pleasure to introduce our first witnesses from the Australian Council of Trade Unions. Their submissions was No. 32. We thank you for that. We welcome Ms Linda Rubinstein, the industrial officer, and Mr Brian Daley, the divisional branch secretary of the LHMWU. We invite either one or both of you to make a presentation in which you may speak to your submission and make any other comments in addition to commenting on other evidence that is given to the committee or on matters that have been raised in other submissions and we will then ask you questions. But we leave the format up to you.

Ms Rubinstein—Thank you. We welcome the opportunity to come and make some submissions personally and also to answer questions. As I think senators would understand, the trade union movement has a deep interest in superannuation and has played an active role around the issues for more than a decade.

I am going to address a number of issues, only one of which goes to the proposed amendment to the Workplace Relations Act in respect of removal of superannuation as an allowable matter. I will briefly address that, because clearly that proposed legislation is an integral part of the scheme to introduce choice of superannuation fund. There are really just four points in respect of awards that I would like to make.

The first of them is that there is a need for an independent arbiter, in this case the Industrial Relations Commission, in order to take account of the fact that employers have greater power in the workplace, in general, than do employees. I think it is very important for senators to reflect on what it is really like in the workplace and the position that employees have when their employer says to them, ‘We would like you to do this.’ It is not a matter of necessarily getting a stick and beating them over the head. If the employer says, ‘If you are working here we would like you to be in this fund or we would like you to do something else,’ it is very difficult for most employees to take a different position from that and to stick up for their own rights. We hear of cases now where employers do pressure or manipulate employees into joining a particular fund, sometimes in breach of awards or sometimes in situations where there is not award coverage.

The second point I would make is that, apart from the necessity for a protective role for the Industrial Relations Commission, there is also a need to have an arbiter that is able to resolve disputes about choice of fund. Some people might recall that when occupational superannuation became an industrial issue in the early and mid-1980s there were very serious industrial disputes in a number of industries about the issue of choice of fund. In those cases, what those disputes were almost entirely about was unions saying that their members wanted a choice of fund; they wanted the ability to be in a fund other than the corporate fund or the

fund nominated by the employer. In many of those cases, the commission actually resolved the dispute and made an award that provided for a fair outcome, taking into account the concerns of both parties and what was in the interests of employees which is, of course, what superannuation is all about.

To introduce choice in the way that this legislation proposes to do will inevitably lead to disputes if there is going to be change to long-established patterns of superannuation coverage and, in that case, to have a situation where there is no body with the experience and the skills and the respect of both parties that is able to moderate and resolve those disputes will have serious consequences including economic consequences, I would suggest.

The third point I would make is that if choice is going to be introduced a body will be needed to actually monitor the implementation and to ensure that there is compliance. It is very strongly our view that government bodies, or new bodies established to do this, will not be able to do it nearly as well as the commission, which has the experience of workplace issues. In fact, of course the problems with the Superannuation Complaints Tribunal show us how difficult it is, in any event, to establish bodies where issues can be raised about jurisdiction. With respect to the Industrial Relations Commission, its jurisdiction in these sorts of matters is clear. It has been challenged, tested and changed time after time over the last 80 years or so and, in our view, would be clearly the appropriate body to monitor workplace compliance and implementation.

The fourth and final point I would make about awards is that it needs to be understood that simply removing superannuation provisions from awards will leave employees worse off because many awards, perhaps most, in at least one respect but in different respects, provide conditions that are better or fill gaps or fill silences that are left by the SI(S) legislation. In the submission we went into that in some detail and I think gave some examples of the different types of superannuation clauses. But I will just draw your attention to a couple of what we think are really critical examples.

Many awards provide for employees earning below the threshold of $450 a month to receive some superannuation entitlement—either three per cent or the full SGC. Where that is important is not in the areas of great industrial strength. You do not actually have people earning less than $450 a month in the mines or on the wharves or in the building industry. Where you have them is in the retail industry, in the hospitality industry, in the people that Brian Daley represents in the health industry, mostly women and young people working part time, and those people currently have a superannuation entitlement. It is nothing new. They have had it for 10 years and, if this legislation goes ahead, they will lose it.

Similarly, many awards provide for employees to receive superannuation entitlements if they are off work but receiving workers compensation make-up pay, if they are aged over 70 or if they are part-timers under the age of 18—of course heavily represented in the hospitality and retail industry. Those people would lose their entitlements.

The point I make about that is that it has nothing whatsoever to do with choice. Removing entitlements has nothing to do with choice, yet that will be a consequence—people will be worse off. And it is notable that in the choice legislation itself the proposal is to protect the employers from the consequence of having to calculate superannuation

entitlements on the basis of a higher notional earnings base because, as you might know—I think we refer to it in the submission—in some cases awards ironically provide for a lower notional earnings base than would be the case if you simply applied the legislation.

Now the choice legislation is designed to ensure that employers currently paying on an award base-notional earnings base will be able to continue to do that. That is, employers will not be disadvantaged but employees will lose any benefits that they receive from awards. So one thing that surely the choice legislation should say, in order to have fairness, is 'Well, if you are going to keep the same notional earnings base you should keep the same eligibility and you should keep the same provisions in terms of monthly contributions and other issues.' That is just simple fairness. You cannot say, 'Well, anything that benefits the employers that is in awards we will keep, but anything that benefits employees we will get rid of.' We just think that is wrong and unfair.

That is all I really wanted to say about awards. I will go on to talk about some other issues. The second major thing we would say about this legislation is it is not really about employee choice; it is about employer choice. It is employers who have the lion's share of the ability to choose. First of all, of course, it is the employer who chooses whether to offer unlimited choice or restricted choice, and in reality it will be the employers who choose whether to have workplace agreements—particularly where they are AWAs.

So, although in theory under the legislation an employee can come to the employer and say, 'I want this fund,' in reality the employer can say 'No', because you are going to need the employer's agreement for any proposal of the employees. As we said in the submission, the reality is the employer will say, 'I would like you to sign this AWA; I would like you to sign this informal agreement,' and the employee will really not be in a position to do anything else, even if they want to. In many cases they will not feel strongly about it and the employer will be able to exercise his or choice quite free from any opposition of the employee.

But then our role has to be not simply to say, 'Well, if the employee does not care, the employer might as well be the one who decides the matter.' I think our role has got to be to ensure that whatever happens is in the interests of the employees. It is their money. The system has to work, we would say, in their interests.

I will make another point about AWAs which does impinge on industrial relations legislation. To the extent that the choice legislation encourages employers to make AWAs really for the purpose only of establishing the superannuation fund that is going to apply, that is also going to have other effects on the employees' other employment rights. That is consequential on that because an AWA completely replaces an award. While an AWA is in force, the employee is not able to seek another sort of agreement—a certified agreement, for example. The employee is not in a position to take protected industrial action. I know that they are not issues that you are dealing with, but doing an AWA on superannuation is not as simple as many people believe because it has all these other effects.

CHAIR—Can you just explain this? We are told that it is possible to have an AWA for one section of your work force and have a limited choice for another section. But is it

possible in one particular section of your work force—say, the boiler shop—to have some informal agreements and some the other way? I am not quite clear on that.

Ms Rubinstein—I think it probably would be. It would be possible to have a mix of agreements. But AWAs, which are formal agreements, as you know, approved by the Employment Advocate, were not designed for this legislation; they were designed to comprehensively establish people's conditions of employment for a period of time.

CHAIR—There is a totality.

Ms Rubinstein—And they would still have to do that. So, presumably, an AWA for superannuation would also incorporate other award conditions. It would have to do that. But, without wanting to talk about it in detail, the fact is that those employees who signed that AWA would have restrictions of their rights in other areas—as I have said, for example, to take protected industrial action or to seek a wage increase or other things—that would be consequent on that. That is fine if they go into an AWA for the normal reasons but, if they are encouraged to do it merely to avoid the choice requirements for the employer, then it is not the purpose that it was established to do.

CHAIR—If two people are working side by side doing the same job, can one sign an AWA and the other not?

Ms Rubinstein—Yes, they can. But that does not take away from the point I am making about the intention of AWAs and what they are supposed to do. If they are used for purposes of establishing superannuation funds, then they have a whole lot of other consequences that are extremely worrying.

The next point I would make about this is that the proposal that the employer would choose—the default fund—is very significant, particularly in industries which have a very high turnover of employees. And that is, of course, true in industries like retail, hospitality and many others. The effect in those industries with new employees, many of whom are young and are not really concerned about superannuation, as I think we said in the submission, will be that the employer will say, when the employees sign the employment forms, 'We like you to be in X fund here, so would you just sign up?' Of course they will sign up—they are starting a new job.

In two years, by the time you are getting around to the existing employees, the majority in many cases will be in the fund that has been chosen by the employer. The reality is that in industries like hospitality many employers have a turnover in excess of 100 per cent per year. So I think that is something to consider: that the ability of the employer to choose the default fund is employer choice.

Senator CHRIS EVANS—Why is that different from what applies with industry funds currently? I am playing devil's advocate, but is that not the same of an industry fund currently?

Ms Rubinstein—Not where they are covered by awards because all employees, new and old, would be in the funds that are prescribed in the awards. They may be industry funds;

they may not be industry funds. A common misconception is that awards all prescribe industry funds and no other funds, whereas awards often provide either that there be a choice between a number of industry funds—for a choice between the corporate fund or an industry fund—or a mechanism by which they will say, 'People choose, let's say, between a corporate fund or the industry fund, but in these circumstances another fund can apply.'

As long as there is a process, which usually involves the commission, of ensuring that that is in the interest of the employees, and nothing improper has gone on, then that process can be utilised. But the situation in the hospitality industry now is that new employees would join the fund that is specified in the award, unless the other process of going in another fund had been gone through, which involves the commission.

Senator ALLISON—Are you saying that the IRC gives the choice for all employees within a workplace of, say, two or three funds at present or is it just the choice from which one fund is chosen for the whole workplace?

Ms Rubinstein—No. Different awards do different things and there are many hundreds of awards. But I think in the examples attached to the submission, you can see different approaches. The Email award gives people a choice between the Email corporate fund or a range of industry funds, depending on where people work.

Senator ALLISON—So individuals have that choice?

Ms Rubinstein—Yes, individuals have that choice. The hospitality award prescribes one industry fund, HOST-PLUS, but it also prescribes a mechanism for the situation where employees, I think in that case, collectively, wish to be in another fund. That can occur and it can be any fund. But there is some commission involvement in ensuring that the process is a fair one and is genuinely what the employees want. There are many variations of those formulas. I did not want to complicate it with too many attachments but they vary.

Senator CHRIS EVANS—Do you have any overall survey of what applies in awards? Basically, the ACTU submission asks us, if you like, to prefer the award based model over what the government is proposing, and you provide us some examples. But is there any survey of what happens in awards or some sort of summary of what you are saying to us today?

Ms Rubinstein—Not as far as I know but I think that could be done relatively easily and supplied to the committee. We are saying that each award has been determined by the commission, taking into account the considerations that apply in that industry or in that enterprise. Many superannuation awards are enterprise specific, in fact. The Email award is an example of that but there are many such industry specific awards because, by and large, that is the way in which it was done in the 1980s. All of those factors were taken into account by the commission.

We are saying that, particularly in the time frame that is being proposed, to simply undo all of that consideration, thought, work and submission, and override it and say, 'We will replace it with our judgment of what is best for everybody, having looked at the interests of particular groups of employees and their actual employers,' is quite counterproductive.

The other point which goes to this issue of employer choice is our concern that the legislation purports, and it may not do this, to exempt employers from liability for anything that they do in implementation of the act. Certainly, you would be aware of legal advice that that attempt would probably not be successful. But, of course, it does send quite the wrong message in terms of employers' liabilities.

The RSA legislation, which we did not support, at least makes it very clear that employers are liable for misinformation or for improper conduct such as accepting incentives from financial institutions in return for putting their employees into particular funds. The RSA legislation sent a very clear message to employers that they would have to be responsible for their actions. This legislation is sending quite the wrong message.

Of course, it needs to be understood that, with this growing development of what they call relationship banking, where businesses, particularly, but also individuals, get a package of financial services from their institution, the temptation to tie all that in together will be overwhelming. I mean, you go into a bank to withdraw $50 and they ask you if you want a home loan.

Of course, it needs to be understood that, with this growing development of what they call relationship banking, where businesses, particularly, but also individuals, get a package of financial services from their institution, the temptation to tie all that in together will be overwhelming. I mean, you go into a bank to withdraw $50 and they ask you if you want a home loan. There is a very big push for all of this. The milk bar operators—I do not know how many people they employ—will go in to bank their takings or whatever, and they will be asked what superannuation fund their employees are in and whether they would like the bank to help them with that. That is a real concern. We have to put ourselves in a position of knowing what goes on out there in the real world and what are the main concerns of employers. I am absolutely convinced that employers' main concerns are not better employee superannuation. If they can get a benefit for themselves and for their business as a result of—

CHAIR—Isn't that just competition?

Ms Rubinstein—I call it the law of the jungle, but you could call it competition, I suppose. There is nothing wrong with competition, but it has to be fair. It is not competition if the employer, who, after all, has the power of the job over the employee, is able to get two per cent off their interest rate from one bank and says to the employee, 'This is what you are going to do: you are going to go into a superannuation fund that is capital guaranteed. You are 25. It is not in your interest but it is in mine.' That just cannot be right; that is not competition.

CHAIR—No, there cannot be coercion.

Ms Rubinstein—But it is not even coercion. Where people are in different power relationships, you do not need overt coercion. If the employer says, 'This is the fund I would like you to be in,' people do not like to upset their employers, by and large, particularly over an issue which, at the age of 25, they will not know much about and they will not care about. However, when it comes to retirement, they will wonder why their superannuation has

been invested at four per cent for 30 years, and then it will be our responsibility, I believe, unless we have done everything that we can do about this.

I would like to say a little more, as my third point, about why we think this particular model of choice is bad for employees. Obviously—and I think a lot has been said about this—it will lead to additional costs. That is inevitable. Competition, on the basis of providing better services, is not a bad thing; it is a good thing. But this is really not about that; it is about competition for selling. It is not as if the contributions are going to change; it is not as if funds will be able to say, 'If you are in this fund, you are going to get a 10 per cent contribution from your employer, and if you are in this fund you are going to get a four per cent contribution.' That is not going to change; they are compulsory contributions. What will push up costs will be the costs of selling, because that will be where all the attention is going to be, inevitably.

So advertising and the payment of commissions will drive up the costs for everybody, even people who do a certified agreement where everyone is in the same fund and nothing has changed. They will have to pay for the administration costs, the advertising and the commissions paid for by those funds to get other people in, and that is going to be an issue.

Of course, many people are going to make inappropriate choices as a result of the advertising and the activities of commission agents. I am sure you have heard more than you ever wanted to hear about the experiences in the United Kingdom and in Chile. I will not tell you about those unless you ask me—I am seeing approving nods—but they are real examples of what can happen.

I have found from talking to workers about super that people have examples of what they call personal super. A lot of employees, even where they are in a scheme at work or where they have taken out what they call personal superannuation, in many cases have been badly burnt by the very high entry fees, the very high exit fees and the poor performance of those funds, and by their lack of understanding about what they have done.

We do not need to travel the world to find those examples. They are quite close to home. One company that I am involved with—a very large company that is reviewing its in-house arrangements—has two or three people who, 10 years ago, when superannuation was introduced, made these personal arrangements and stayed in them, and they have been very badly burnt. So we can do that.

CHAIR—It was put to us yesterday that perhaps we should have a maximum exit fee.

Ms Rubinstein—Perhaps we should not have an exit fee at all. What I would say about that is that you can actually control the funds. You can say, 'You cannot charge more than this, you cannot do this and you cannot do that.' Of course, the more you do that, the more you are going to wonder what it is all about.

Interestingly, in Chile, which I promise not to talk about, the funds are very similar and the costs are very similar. You have these commissions, simply by the selling, and people would split them so the cost went up, and people were shifting funds and there was absolutely no benefit to anybody except to the funds and the commission agents. The

employers would get a whack and this just goes on. I suspect that we will have an experience where people will change for the sake of changing. Even a maximum exit fee is too much. If they are not getting a benefit, you have to wonder what it is all about.

The fourth point I want to talk about is employers. We are not here as an advocate for employers but, having had an earful of it from a number of them, I feel I should share the misery with you. Of course, difficulties caused for employers in their business end up affecting employees as well. We cannot pretend that there is no connection. There is absolutely no question that there are greater administrative difficulties involved as a result of implementing choice. It is silly to think that there is not. Unrestricted choice is difficult because of different requirements of different funds. If you have a computer system set up to do this, you might be able to do it but many will not.

Lack of time is a real problem for employers in small business. It is bad enough with all the tax requirements and reporting requirements that they have. If any of you have ever sat in the back office of a restaurant or at somebody's kitchen table while they are struggling to deal with the paperwork, you will know what an imposition this really is.

For people in small business, many of whom are not actually trained at all in any of the paperwork type things, it is very difficult for them. You have to visualise them coming home: they have closed the restaurant, it is midnight, and they are working out what to pay people, working out their tax and their cash reporting. It is very difficult.

Larger companies are also facing very serious difficulties. A number of companies who have corporate defined benefit funds now are actually reviewing those funds. I am involved with one very large company which is reviewing its defined benefit fund. It has come to the conclusion that the way the fund currently operates is neither in the interests of the employees, because it is being overtaken by SGC, nor is it in the interests of the company. It is complex and costly to run. They want to make changes but it is not something that you do overnight. They have to work out what is the best way to go and then, of course, there is the process of educating and informing the employees.

What are they going to do on 1 July? Are they going to try and do an agreement with the union so that new employees go into the current corporate fund, when both the union and the employer know that is not in the best interests of the employee? Do they offer unrestricted choice or restricted choice when they do not believe that that is the way, long term, they are going to go for all the employees? Do they pick some fund and put all the new employees in that and then think they can worry about it all later? What is the responsible thing for the company to do and what is the responsible thing for the union to do? It is no good to just try to cobble together some quick solution or make some quick decision which, inevitably, is going to impact on everybody in what is a very large business that operates throughout the country.

That is the kind of issue that they are really struggling with. What is even worse is that they cannot decide what to do until they see the final form of the legislation. I am not anticipating what will come from this committee or from the Senate but I think it is fair to say that the legislation is likely to be amended. How can this employer make any decision about what it is going to do? It has thousands of employees. It is actually hiring new

employees and expanding as we speak. How is it supposed to make a decision about what it does? It is an absolutely ridiculous position.

Again, put yourself in the position of these people. This is a good company; they care about their employees. They are very responsible. They do not want to do what is not in their interests. They want their employees to understand what is happening. It is a large work force with a very high proportion of non-English speaking people. A very large proportion are very long-standing employees and a lot of new ones as well. There is a high turnover of new employees. It is very difficult.

In terms of the time frame, and just going back to the award provision, I think it is important to understand that when the Workplace Relations Act came into effect there were a number of matters in awards that were non-allowable, but there was an 18-month transition period for those matters. Employers, unions and employees had 18 months to work out how they were going to deal with these non-allowable matters. Were they going to put them in enterprise agreements? Were they going to renegotiate them? Were they going to simply prepare themselves for being removed from awards? What were they going to do?

In this case, an award provision is going to go overnight. Assuming the legislation goes through at the end of May—or even the end of April, and that may be a little optimistic—it means that in a matter of weeks the award provision will go and people will just have to start from the beginning with no idea about what to do. We think the transitional period—and it was 18 months in the Workplace Relations Act—is absolutely vital. There is no transitional period in this legislation. People will have weeks, at best, from the passage of the legislation to moving to implementing a whole set of very complex new obligations. That is going to cause cost, confusion, bad practice, improper conduct and all of that.

My fifth point is about the industry funds. We are not here as advocates for those funds, but it is well known that the trade union movement played a large part in the establishment of those funds. It is something that we are very proud of and rightly so. There can be no doubt that employees benefit from funds which have these characteristics. They are not for profit and are based on a trust structure with equal representation of employees and employers. They are low cost. They have a very small proportion of their funds devoted to advertising and marketing and, in general, none whatsoever to commissions. They are also committed to ensuring that employers actually pay their contributions. The funds have people whose job it is to go out and make sure that employers pay. They have a big debt recovery program to ensure that that happens. I am not sure that would be the case for other funds.

I would also note that many of the industry funds now provide investment choice for members between different investment strategies. Those that do not are moving towards doing so. I would also make the point that the definition of industry fund that is contained in the legislation in many cases would allow master trusts and other such funds to meet the definition of industry fund and to be put up as the industry fund option in the restricted choice scenario.

CHAIR—It has been suggested to us that they should rightly go into public offer funds to have a new definition for industry funds.

Ms Rubinstein—I think that is right. We all know what industry funds are. We can all say who they are. They have these characteristics that I have just gone through. They are non-profit and have an equal representation structure. They are the things about them that are unique and should be confined to those funds. In a way, we may not quite know how to describe them, but we know who they are. We know what it means and we should stick to that

CHAIR—And two or more at arm's length of employers.

Ms Rubinstein—Yes, and two or more at arm's length of employers, so they are obviously not corporate funds. Finally, I want to move to what very broadly we think should happen now. I am not going to go through all the recommendations in the submission. First of all, very strongly, award provisions should be maintained and the power of the commission should be maintained. Secondly, we believe that the implementation should be deferred for two years, which would be the same time as it would be introduced for existing employees.

These are very complex decisions. They would give companies, employees and the industry the opportunity that they need and, also very importantly, ensure that there is a proper system of education and consumer protection in place and implemented as a precondition before the legislation comes into play. How can you introduce something on 1 July when new employees will be signed up into funds and then have an education campaign after that? All that will do is encourage people to move funds perhaps.

CHAIR—Why not have just a 12-month delay and bring both together into line?

Ms Rubinstein—I know that is basically the industry position. I am not sure that even 12 months is long enough. This is a very complex area. In many cases, there are complex enterprise arrangements. We would suggest a longer period and 12 months is the absolute minimum.

CHAIR—It has been suggested to us though that people still inevitably put off their education programs until the last minute anyway, no matter how long a period they have, unless they absolutely have to do it.

Ms Rubinstein—The education program has to be ongoing and permanent. People come into the work force. It is not as if you run your education campaign and then stop. The education campaign will have to be run for the foreseeable future. It might have to go with a bigger bang at the beginning, but there has to always be an independent source of information and education for employees. You cannot say, 'We have educated this lot and maybe they will tell the next lot about it.' It does not work that way; education does not work that way. The message has to keep going. The education campaign will need to start and keep going.

I think 12 months is the minimum, but two years would be preferable. I am not bargaining with you, but the 18-month transitional period in the Workplace Relations Act could split the difference. There needs to be a considerable period of time. The education

program and the consumer protection need to be in place. The consumer protection needs to include, as a minimum, a prohibition on commissions and excessive advertising.

Senator Watson, I think your proposal about exit fees is something else that should be looked at. We also believe that there needs to be full disclosure of financial relationships between the employer and the funds that the employer is proposing. There needs to be proper allocation of liability to employers for actions that they take. I would point out that involvement of the commission in awards is a very good way of protecting employers from liability at the current time.

Finally, we would recommend that the default fund should be in accordance with the award. Where there is no award, one of two methods could be adopted. The first is that it could be the fund to which the majority of the employees are already belonging and the second is to pick up something from the Workplace Relations Act. Where you do an AWA or a certified agreement under the Workplace Relations Act, if there is no award in place the commission or the Employment Advocate designates an award for the purposes of measurement of the benchmark. That same principle could be used. For example, if you had a shop that was not legally responding to the shop award, the commission would designate the shop award as the relevant award. We would say it would be the same process whereby, if a shop was not covered by an appropriate award, the Victorian shop award—for example—would be designated. Whatever it said there would be the default fund rather than simply leaving it up to the employer.

Mr Daley—I would like to make a few supplementary comments. I am happy also to answer a number of questions on the industrial disputation factors. My union was heavily involved in a range of disputation from the mid-1980s onwards. It is not beyond the realm of possibility at all that significant disputation could emerge over the change to the choice of fund legislation. I will not take time, other than to say that there is a wealth of experience that can be relayed to the commission if needs be.

Initially, I wanted to comment that the rationale behind what is happening as to which superannuation fund applies dramatically changes with this legislation. Up until now, for most of the work force, the rationale has been substantially about a compliance decision as being one of the major decisions as to which fund should apply.

It now moves for many employers to a commercial decision, and that is a substantial change in the thinking and the rationale behind it. It has implications, some of which Ms Rubinstein has outlined, and some we might further outline as well.

Just to refer back to Senator Evans's question on the issue of the funds and the way in which they were chosen, remember the many arbitrations which occurred about which fund might occur in the 1980s. Funds simply were not chosen because they were a thought at the end of the process; a significant rationale went into which fund would apply. They would start with this principle of how compliance would work—I will mention a bit more about that later—and they also developed on a simple and cost-effective basis.

Having got to that principle we then faced many arbitrations about, 'On what basis would you determine fund?' In many cases we would go to an industry such as the health industry

or the child-care industry and we would look at the mobility of labour in that industry. Did people stay in that industry? Therefore, was it appropriate that there be a fund that encouraged portability within the industry?

I can specifically remember the arbitration in the Australian Capital Territory and the Northern Territory where we looked in great detail at the intrastate and interstate mobility of persons who applied there. We found high levels of intrastate mobility in both those cases. It meant that there was a rationale in both the ACT and the Northern Territory for there to be national funds which applied in those cases, rather than try to establish a separate state based fund which some of the employer organisations argued for.

The first point I make in support of the ACTU submission is that the choice regime that exists there is not a hotchpotch regime; it was a regime that was well thought out. It was built on a compliance based regime. It was often determined case by case on a whole range of individual principles about the mobility and the characteristics of the industry and of the people within the industry and their propensity to move intrastate and interstate. It is a well-founded regime and it has stood the test of time for 10 years.

As I say, we now move to a situation where we are moving away from what is substantially a compliance regime—and there are some issues to raise about that—to what is a commercial regime, and there are some issues to raise about that as well.

Compliance is a major factor in the provision of superannuation to many award employees now. In my organisation, we would have in both our major sectors, cleaning and hospitality, several hundred employers at any given time who are substantially in arrears with their superannuation arrangements.

I did a count in the early part of this week and I found that up until the beginning of February my organisation in Victoria alone had about 1,000 prosecutions against contract cleaning employers, of which about a quarter were superannuation based, simply because of failure to comply with the award requirements. The industries are dominated by people who have cash flow problems and those cash flow problems manifest themselves in people being substantially in arrears at a regular time.

There is a fundamentally different relationship between an award based system where compliance is a feature and you have an ability to prosecute on compliance, and a system which relies on a commercial arrangement and the relationship that the employer has with the fund to ensure that superannuation is paid.

There are two comments about that. Firstly, in the commercial arrangement the employer, at law, has a different approach to the way in which they seek to recover arrears. It is much more complicated and involves winding up arrangements and sheriff arrangements and the like. They are lengthy and time consuming and in many cases unenforceable and non-deliverable to the employees involved.

Secondly, if you think about the client relationship and if we move to a choice relationship, why would a fund in a commercial relationship pursue an employer about whether they are in arrears when they know that that employer can simply remove them from the list of

funds that they offer? That commercial relationship is a principle that now applies under this new relationship. To use the old adage, we had a system that was working and that was not broken, so why change it? We are now moving to a system where the opportunities for breakage are much greater. I have some comments about some of our major industries to demonstrate this issue of—

CHAIR—Just a moment. You are going very much into question time. It is your choice if you want to go on, but we do have other witnesses.

Mr Daley—I have a couple of comments about the industries—

CHAIR—Yes, I accept that, but you have the choice as to whether you continue on or whether you want question time.

Mr Daley—I will make one quick point. I was going to talk about the nature of the choice that people are going to be provided with in the cleaning industry. Some of those things are obvious such as the non-English speaking problem, the age group and the character of the people involved.

I have a final point about what happens in the choice regime that I would like to make and about which Ms Rubinstein spoke as well. In the child-care industry, in the choice regime, we have seen an attempt to establish a number of funds to provide extra choice to employers. One of them, the fund I have in front of me by the name of the Australian Child Care Industry Fund, which is regarded as a subdivision of the Colonial Master Fund, has on its prospectus a comment about commission. It says that three per cent of the contributions plus 0.24 per cent of all assets will be paid to the employer association, the Child Care Centres Association of Victoria, to assist the organisation in defraying its operational costs in providing support to members.

I would say, as a final point, that in many of our industries this concept of master trusts setting up funds which offer a supposed choice to the industry will be thin veneers of a commission driven system in which money will be given back to employer associations. It will not be genuine choice; it will be a choice based on the employer associations delivering money. It is a bizarre concept where you will have employees funding their employer associations out of their superannuation contributions, based on a principle that they should receive lesser payments and lesser earnings all in the name of a commercial decision called 'choice'. Thank you.

CHAIR—Ms Rubinstein, you have a problem about the arbiter being taken out of awards. If it was taken out, what would your alternative be as to who should be an arbiter in the event of a dispute on choice?

Ms Rubinstein—It is difficult to say. I suppose it could be the Superannuation Complaints Tribunal, such as it is. However, there are going to be continuing problems about jurisdiction because, as you know, a body that exercises these sorts of powers cannot be a judicial body. As I say, with the commission we have had 80 years of law making and so the commission knows very well the difference between judicial and non-judicial decision

making and does not make judicial decisions. The other thing I would say is that it is very difficult for a body like that to do it.

Consider a body like HREOC or the state equal opportunity bodies. Despite the best will in the world and even involving conciliators and so on, they are so slow. When I worked for a union I found that if you had a problem, say, sexual harassment, if you took it through the state equal opportunity body it would take months and months and months. They were so careful about getting the statements. You would have one meeting and another meeting and it would just go forever.

However, if you took it to the commission it would not have any sort of legalisms whatsoever. The commission would say that everyone is going to tell their story. The commission is used to, if you like, banging people's heads together but really coming up with a solution to a real problem, and quickly. They have that workplace experience and they are seen as doing that.

That is why it is my view that in many cases the commission is better dealing with these sorts of workplace issues than specialist tribunals are. Even though they are very committed, they just do not have the resources, generally. They are very fearful as the thing goes up because they know it is going to be subject to legal challenge in a way that the commission is, by and large, protected from. It just is different.

That has been our experience. I am not saying it cannot be done but I do not believe you could get a body that had, firstly, the resources of the commission and, secondly, the experience in terms of both legally defining its jurisdiction and dealing with workplace issues.

Senator CHRIS EVANS—I have a couple of questions. In terms of the choice, Ms Rubinstein, I would like you to touch on the issue of amalgamation of individuals' funds. It has been one of the major concerns of this committee and me for many years—workers moving between industries, having a large number of funds. We have got the tax office solution, which was never one that I favoured, but what do you think the choice legislation will do? How will that impact on that issue? Have you any thoughts about that? I am interested in what the development will mean for—

Ms Rubinstein—It may, of course, make the problem worse. It depends on what employers do. If employers in the same industry do agreements with their employees for different funds, then obviously people will end up with more accounts, not fewer accounts. At the moment, with, say, an industry fund, if they stay in one industry, there is complete portability with that. If employers, theoretically, all offered unrestricted choice—I do not think that is likely—it may well be that it improves the situation. I suspect, because everyone will have different arrangements, that it could actually make the situation worse.

As many of the major industry funds are moving to public offer and are doing that, one of the reasons for doing that is that often somebody that is, say, in C+BUS will move to another industry and really want to stay in C+BUS. Now they will be able to do that. There is no problem with that.

It is certainly not the ACTU's position that everyone should have to be in one fund. What we are saying is that there should be a process which ensures that, where people are in funds, it is either determined with a proper process through the commission, as it is being done in awards, or it is genuinely at the employee's initiative and is genuinely what they want. If someone is in an industry fund and they want to stay in that fund, if that is okay with their employer and with the fund, of course, they should be able to do that—or, for that matter, other funds.

This may have the effect of killing corporate funds. Alternatively, it might have the effect of employers being able to tie everybody up into the corporate funds, so people will end up with more accounts. We just do not know.

Mr Daley—There is a massive proliferation of small account balances now. The industry funds roll literally hundreds of thousands of people into eligible rollover funds on a six-monthly basis. The cooperation within the industry funds has established a common eligible rollover fund which may allow amalgamation of those accounts into the future.

Under the regime that is being proposed at the moment, what we are likely to see is institutional funds roll their own small accounts into their own eligible rollover funds, and there would be no sign of goodwill or cooperation that we would see amalgamation of those small accounts. So I think part of your answer is that we are highly likely to see a substantial number of small account balances based in institutional funds, like lost bank accounts, withering for many years under this regime.

Senator CHRIS EVANS—Mr Daley, you used that example of the prospectus from the child-care industry. Are you able to table that?

Mr Daley—I certainly can.

Senator CHRIS EVANS—I would be interested in having a look at that.

Mr Daley—This was a fund that was established in 1994, but I also have evidence, which I am happy to table, of it being re-established with a different institution in 1997.

Senator CHRIS EVANS—Perhaps you could give it to us. That would be good.

Senator ALLISON—Yesterday, when the Nursing Federation came before us, we had a discussion about the union's role in advising their members regarding choice. Can you tell us what thoughts you have on this situation? Presumably, once an employer decides what choice is going to be offered, the union would wish to inform its members about where they should go in terms of that choice. What sorts of responsibilities and legal liabilities might apply to the union? Do you imagine unions affiliated with the ACTU would want to do that? Have you thought through this situation?

Ms Rubinstein—I think there are great dangers for ordinary union officials in becoming financial advisers. Certainly it would not be for unions to advise their members as to which fund to choose. The ACTU has a system of accrediting financial planners and financial advisers, and it would be possible to do something through that system.

The point is not really to advise people about which funds. I think the role for the union is first of all to explain what is happening but also to attempt to negotiate particular solutions. For example, the act assumes that there will be certified agreements that will be in place in order to override choice, or that there will be certified agreements that will include the issue of superannuation. There are such agreements now, anyway, in the normal course of events. We would negotiate that, though.

Senator ALLISON—Leaving aside those agreements—I understand that process—in the event that there are not agreements, I am just trying to understand what sort of role the union would play in advising their members.

Ms Rubinstein—It is not my view that we could go further than saying, 'This is what you look for.' I think you could say, 'You need to make sure that you are looking at the issue of fees. You need to ask about commissions. You need to do all of these things' but there would be clear dangers for unlicensed people in saying, 'This fund is better than that fund' or 'If you go into this fund you're going to end up with a higher return.' I do not think that we could go further than saying, 'These are the key features and that is what you should address yourself to.'

Mr Daley—Certainly I think there are issues that we would raise in respect of where we thought there were hidden charges and costs on some of the funds being proposed. But there are practical difficulties. To look at some of my members: there are the non-English speaking characteristics of 45-year-old migrant women in the cleaning industry. Really there is a very limited opportunity for us to provide any meaningful advice for those people at all. And, substantially, choice will not exist for those people. That is a point Ms Rubinstein made earlier. They will be given a fund and told that this is the fund the employer pays into.

Senator ALLISON—Nevertheless, if the advertising campaign works and people do believe there is a choice, who will they turn to for that advice?

Ms Rubinstein—They may well come to unions, but I think unions have to take care; if they are not licensed financial advisers they have to be very careful about what they do. I suspect that where people will go is to family and friends. They will go to the employer in many cases, and the employer may hire a licensed adviser. I must say that a while ago I did something for the Financial Planners Association and they saw great opportunities in all of this. But employers are facing dangers if they offer advice and they are not licensed.

People will go perhaps to their bank. They will go to the provider of other financial services that they have. Perhaps they will just sit there and people will come to them, which is what I think will happen. They will be approached in their normal course of things by people selling, whether it is the bank or other financial institutions, television advertising—'Send off this form and we will send you a Tattslotto ticket,' that sort of thing—or direct communication through the telephone. Selling through the telephone at home, as you probably know—I certainly do—is becoming much more common.

Senator ALLISON—You said that the RSA legislation at least has clear provisions in it concerning the employer responsibility. Now that that has been in place for some time, can

you give us some views about whether or not you think that is working? Is that how it is panning out?

Ms Rubinstein—One does not get the impression that RSAs are being really heavily promoted or heavily utilised. I do not know how many such accounts there are. The feeling that one gets is that the industry is waiting for this legislation. RSAs can only apply in the non-award sector, and by definition that is not the sector that unions have a large amount of contact with. So it is hard to know in practice.

Perhaps the message that the RSA legislation sent both to the institutions and to employers has reduced their enthusiasm for heavily promoting it, and perhaps they are waiting. If they can do this without all of those obligations, then that might be a more attractive proposition.

Senator ALLISON—This legislation would appear to put the government in the position of having to intervene, to set regulations and to embark on an enormous education and advertising campaign. You said a couple of times in your presentation, 'What is it all about?' What do you think it is all about?

Ms Rubinstein—I think it is about giving very large financial institutions a greater ability to sell their products in the market of compulsory superannuation contributions. I think that, when occupational superannuation was introduced and the industry funds were established, that was in response to what was seen as the completely unsatisfactory nature of the products being offered by those institutions. They missed out then, and they have been sore about it ever since.

To be perfectly frank, I think it is known that they are large supporters of the Liberal Party. I think that the connection is fairly clear. It is giving them a greater opportunity to sell their products.

The problem with the RSA legislation was that it concerned a limited product, of limited appeal. The controls and restrictions on doing that in a totally law of the jungle or competition way—depending on how you look at it—mean that it probably is not that attractive. But that is what it is about. Some believe that there is an ideological hatred of the industry funds and the union involvement in those funds. If that is correct, it really is a concern about not very much. Although a very large proportion of the population has accounts in industry funds, industry funds I think are no more than seven per cent, perhaps a little bit less, of total superannuation assets in this country—hardly a concern to the totality of financial institutions.

To the extent that that is a factor, it is of course quite improper. But there is certainly anecdotal evidence that the traditional financial institutions and the political forces that they back are outraged—personally outraged—that people with connections with trade unions are in the financial market and providing products which actually compete very effectively with them on a non-profit basis. They feel that these people have strayed well beyond the area of their legitimate activity—assuming that there is such an area of legitimate activity at all.

Senator HOGG—My question relates to the issue of casuals. Under the proposed legislation, the choice of funds applies to new employees from 1 July 1998 and to existing employees from July 2000. In industries such as the hospitality and the retail industry, with which I am personally familiar, there are a large number of casuals who by definition become new employees each time they start.

Ms Rubinstein—Some do and some do not. That is the difficulty with it. My view would be that, where the act talks about a new employee, a person who was a casual would not necessarily, simply because they are a casual under their award, be a casual for the purposes of the superannuation legislation. You only have to look at the law which has developed around unfair dismissal and also, prior to that, payment of long service leave. In my view, it is the common law question of what is a casual employee which would apply.

The courts have found on many occasions that employees termed casual under their award and paid as casuals have a continuing contract of employment. It is the difference between the person who works in the pub every Saturday night and knows to keep coming every Saturday night, even though they are paid as a casual—that is the common pattern in retail, as you would know—and the gardener who is rung up when a lawn is looking a bit long and he is asked to come, which is, if you like, your true casual.

The only problem with the common law determination of who is a casual is that the law says that that is determined on the basis of the facts of each person's employment contract. So you could have a situation where it was unclear whether a casual was a new employee or not, unless a court had looked at the nature of the employment contract, meaning the understanding between the employer and the employee in each individual case. This is good news for employment lawyers, but, along with banks and insurance companies, I am not sure that we particularly want to encourage that. I think it is a huge problem.

Mr Daley—I think the regular casual—and I am not sure if this is where your question was coming from, Senator—will make an election at the time they start and that election will probably stay in force for the period of time that they are a regular casual.

Senator HOGG—No, I was really looking at the need to apply the new law, if it comes into being from 1 July, and to whom, given that currently the proposed legislation is unclear and it is an area of concern. The other area that I wanted to pick up briefly was the issue of education, which is a massive and ongoing task. Who should pick up the tab for that? That has been an issue in dispute. Some say the industry should pick up the tab.

Ms Rubinstein—Slightly flippantly, I would say those who see themselves as the beneficiaries of the legislation, which I think means the banks and the major insurance companies. But I think it has to be done through a government body. Whether it is paid for by the government or whether it is paid for, partly or wholly, as a levy from the industry, it needs to be run by the government, with proper advice from all interested parties.

The problem is really this: we can say, 'That's all right; let the industry pay,' but the fact is, as we know, that, when the industry pays, everybody pays. Those costs will be passed on. Of course, they will. If the government pays, then it is taxpayers' funds and, again, everybody pays. You have got to ask: what are they paying for? They are paying for an

education campaign that enables them to deal with an advertising and marketing campaign, all of which will not add $1 to their retirement incomes. It will not increase employer contributions. It will not change the operation of the share market. It will not reduce—it can only increase—administration costs and other charges.

So what is the benefit of all of this? You are creating this problem for people and you are getting them, ultimately, to pay for an education campaign to help them deal with a problem which they did not have to start with.

Mr Daley—At the micro level, when you talk about individual workers and individual factories, you probably have a very limited education campaign going on. You may have a macro campaign in which the government provides information through television advertising and the like, but at the micro level people will not be educated significantly about what choice applies.

Senator CHRIS EVANS—Mr Daley, I missed this, so I want to go back: you talked about low paid workers and those on less than $450 a month. I have argued for some time inside this committee that people ought to pay superannuation on every dollar earned and that that was the best way through all these threshold problems, et cetera. It has not been a view adopted by the committee. You raised the issue of those under awards who earn less than that but who currently have award entitlements losing those under this legislation.

I know you cover areas of the work force where this is an issue. I wonder whether you could explain to the committee what the rationale was for superannuation arrangements like that and why you argue for those people to be receiving superannuation. I am just trying to understand, when you come to those award arrangements which will be eradicated by this legislation if it passes in its current form, what the rationale is. Why have unions made those sorts of arrangements?

Mr Daley—The initial rationale as to why superannuation was introduced was that it was a forgone wage increase. It was a wage increase that people argued for originally in the mid-1980s as some form of national productivity case. The commission did not find national productivity but determined that there should be universal superannuation in lieu of it. A similar case was mounted in the early 1990s when the superannuation guarantee levy was introduced. The rationale for many of our people was that, if they did not receive superannuation, they would lose the benefit that they were entitled to because their work patterns were such that they worked for a limited number of hours at that stage.

At that time, we developed a rationale that basically said that, if an employee was going to receive a positive benefit from being in a superannuation scheme, they should receive a payment for them. The thresholds that we established in those early days were thresholds which basically allowed that for every contribution people made, after their insurance and administration charge was taken into account, they would receive some contribution going towards their retirement.

We did that because we knew that in many of our industries—child care and hospitality were examples—those people did not always remain in those industries for all their lives, but they should receive superannuation contributions for the early part of their employment

because they would be of significant value to them later in life. Wherever a person was receiving a positive contribution, we sought to ensure that they received a payment towards their long-term retirement, and therefore also the payment of national productivity increases which they were entitled to.

In recent years the issue of small account balances has been addressed in another form, whereby the subsidisation of interest occurs on those things so that people's account balances do not go backwards. We would probably in this era develop a further extension of our rationale to say that where people were to receive any benefit at all they should receive the same benefit as the rest of the people in the community will receive.

Senator CHRIS EVANS—In effect, removing superannuation from those people is the equivalent of a pay cut in your view because it was compensation for a pay cut.

Mr Daley—It was certainly a pay cut. In some cases you could also substantially argue that it might have been an encouragement for certain employers to reduce the hours of some of the part-timers and encourage a more casualisation in industries where we had a substantial coverage. In the cleaning industry it is common to have cleaners working three hours a night. If you reduced it to two hours because it—

Senator CHRIS EVANS—So now when people are below the threshold there will in fact be a six per cent differential in costs to the employer for those below the threshold?

Mr Daley—That certainly will be the case. In an industry like contract cleaning where award compliance outside the top 20 companies is very low and there is a proliferation of cash-in-hand payments and of flat dollar payments going on, then this regime—$450 to $900 where choice might apply—is almost certain to see people being offered choices where they will not receive any superannuation contribution at all.

CHAIR—Thank you very much for appearing before the committee this morning.

[10.19 a.m.]

SUN, Mr Marc Keith, 5 Kiers Avenue, Mt Waverley, Victoria 3149

CHAIR—Thank you very much, Mr Sun, for your presentation to us in the form of a submission. We had a large number of people who did submit, but we thought, given that you had had various roles in trustee management, you could bring a new perspective to this debate. Accordingly, thank you very much for making the time available to present your evidence this morning.

It would be helpful perhaps if you just gave us a few minutes of your background, your role in the trustee management and why you have felt moved to make your submission.

Mr Sun—Certainly, Senator Watson. I am appearing as a private citizen. The reason for submitting this is that there are a lot of people out there in the community who would like to express a viewpoint. They do not know how to. I have had the opportunity and the fortunate position of having worked in the trustee field for the past 10 years. I can see it from two perspectives: one, as a migrant from another country, not having received superannuation previously; and two, as being from a non-Australian culture. I thought it was time something was said. Having had a look at the information that was provided on the choice of funds legislation, I decided a few key issues may be worth tabling.

In relation to my history in terms of superannuation, I have worked in the industry funds for probably 70 per cent of the last 10 years and I have worked in an independent trustee organisation basically in a trustee capacity, working for the trustees. I have been looking at their marketing, communication and legal side of things over the past 10 years. I am actually from South Africa and I have had experience in accounting, financial institutions and insurance areas.

CHAIR—Thank you. I now invite you to talk to the highlights of your submission.

Mr Sun—The issues that I raise in the bill effectively cover what I espouse as the main reason which is competition in the level playing field, in particular where the mandated award and SGC employer superannuation were to be placed. Having delved and thought about it, I said, 'What does that really mean to me as an individual, rather than being an employee in the trustee industry?' I gathered my thoughts on it and I said that, effectively, it was to accumulate capital to replace the earned income from employment in your retirement years. Secondly, it was to compensate for the ever-diminishing social pension and, thirdly, to create a new society of self-reliant citizens.

In relation to these factors, I looked into it in perspective and thought, 'Yes, it does work.' But there has always been the problem that superannuation has been highly taxed. It has been taxed on entry, on the ingoing investments and on exiting.

Two other points were thought of, and I said, 'Why were the RBL limits created?' The purpose of superannuation is to enable a person to accumulate enough money so that they can use it to their best ability. The second issue is that, with the new surcharge tax, people

in a higher tax bracket who are willing and who are prepared to save more for their retirement will be actually penalised for doing the right thing.

Going back to the way the superannuation guarantee legislation was put together—and I will refer back to the awards—when the award superannuation was introduced, it was effectively a trade-off of wages versus productivity gains. That is my understanding of the purpose of that part of superannuation. With the introduction of this SGC legislation, it then brought into account all other people who were not in the award. In doing so, it then basically covered the majority of employees in this country, excluding the self-employed.

I have delved into the question of the super guarantee legislation because I think there is a direct correlation between that legislation and your proposed choice of funds legislation. Currently, employers are paying the six per cent superannuation and, under the SGC guidelines, the employer has a deadline of 28 July each financial year in which to pay for the previous financial year.

That in itself creates a problem under the choice of funds legislation because, whilst employees may choose a particular fund, if the employer so desires he or she might decide, 'No, I won't pay the super from the date that the arrangement has been put in place, but I will defer it to 28 July.' You have a lot of complications there. My background gives me all this sort of information, because I have to deal with various matters that relate to unpaid contributions. It is quite frustrating for employees that understand that the government has put in place a great system but that it does not really work—to the extent that, unless they do something about it themselves, they cannot actually benefit immediately.

If you look at that arrangement, the deferred payment of that superannuation could lead to loss of earnings for that fund member. It will also bring a common law liability, so to speak, if there are insurance arrangements through a particular fund—and, again, if there is a particular award in place. For non-award employees, that is another issue that I am sure the courts are very happy to deal with. There are also, at this stage in time, a lot of employers who do not pay the SGC, and I am sure the committee is aware of the statistics from the tax office on the amount of SGC vouchers they issue every year—or in the past two years, at least.

From a member's perspective, probably one of the most serious aspects is where an employee has requested to make a payment personally to a super fund, and the employer has deducted the contribution from their wage or salary each month but in fact has not remitted it to the fund. You have got that issue, as well.

CHAIR—Is that practice widespread?

Mr Sun—Anecdotally, from my perspective, we would not know, but I think it is evident when you get a member who terminates service or in the situation where a company has gone into liquidation, for example: the members phone up and say, 'I actually contributed X dollars over the last year or period of time. I have checked with your fund, and you only seem to have half of what I am supposed to be entitled to.' There are those sort of issues.

Senator CONROY—I could add that nothing causes more angst than finding that your employer contribution has not gone in; but, when you find out your own contribution has not gone in, well! That is not endemic, but it certainly is not uncommon, either.

Mr Sun—True. I will cover the choice of funds aspect as I see it, and I refer now to the implementation date. There are two start dates, effectively: those for new employees and those for existing employees. I have stated in my submission that I believe that it should all be commenced at the same time. I have given an example of where an existing employee may have been given some financial planning advice and been told, 'The fund that you have at the moment is not suitable for your needs; you may need to invest somewhere else.' If the employer agrees to the proposed legislation and says, 'I can't offer it to you,' that employee may in the period in question actually have a loss of earnings, if they do not change their fund.

Those are the sorts of issues that I see with the implementation date. If you are going to make it available as a policy for superannuation members, it should be across the board. In discussing with employers the implementation date, they also question why the need for two dates: if they are going to do something, it is going to affect their whole employment arrangements and how they are going to tackle the administration. So they would say, 'If you're going to do it, do it for everybody.'

The second point I also touched on was contributions, rather than balances, being affected by this legislation. I personally think that, if you are going to look at the futures of superannuation members, a lot of people would like to move their balances, for whatever reason. I do not think there should be a distinguishing of a cut-off in terms of what should be allowed to be a choice of fund, but rather for the superannuation account in its totality. I might leave it at that and go on to answering any questions that the committee may wish to raise.

CHAIR—Thank you very much, Mr Sun.

Senator HOGG—I only have one question, and that is in respect of the page 3 table. That is the best way I can describe it. I presume that what you are getting at is that the issue of choice really boils down to a matter of investment choice more so than fund choice: is that a reasonable statement?

Mr Sun—I think you have two questions there. In reality, fund choice within a fund would be the investment choice; and I think a lot of funds are already moving towards that. Going back to 1994, I got involved in a particular fund where they were not happy with the fund performance. The trustees, in their wisdom, said, 'To solve this problem, we'll offer three streams of investment choice.' So, within that fund, they said they would have something like capital guaranteed and a balanced fund, and then they market linked. That issue on its own allows the member to decide how the investment that they have, in terms of the time that they will be in that fund, will actually be of benefit to them.

The other question that you raise is whether that is the same as the choice of fund. I think they are two separate issues.

Senator HOGG—The way I read what you are saying is that, in the example you give of a 53-year-old employee, that person would be looking for more of a low risk investment rather than a high risk investment. The possibility with this legislation is that, if you have got a limited choice, you could be offered what are still four low risk investments, and so you are no better off. You do not resolve the problem for the younger person that might want a high risk.

Mr Sun—Society's perception of a 53-year-old wanting a low risk is not quite correct, because there are some 53-year-olds who might say, 'I'd rather have a riskier portfolio.' If, in the limited choice scenario, the employer selects particular funds which are more geared to the middle risk area rather than to the opportunity for a high risk area, that particular employee will not be better off.

Senator HOGG—Do you see choice of fund as satisfying the needs of the various people seeking superannuation? Will it supply the range of choices for them?

Mr Sun—If you look at the proposed legislation, you have—and I will cover them now—RSA, capital guaranteed products, a public offer super fund, and an appropriate industry fund or company fund. Depending on which funds are being used, they may or may not actually satisfy the person's needs.

Senator ALLISON—You seem to be arguing for full portability not just of balances but of contributions. What measures would need to be in place to achieve that?

Mr Sun—Looking at the way the proposed legislation is brought about, it says that from a particular date all contributions coming into the fund will be given the option to be invested differently, in terms of the choice scenario. That in itself suggests, with what you have accumulated up to this point, the question of why you should not be able to move it from a particular fund and put it into the choice of fund that you have selected.

I have indicated that there are some trustees which actually do not allow the transfers; which is not very good if you are trying to achieve a full freedom of choice scenario. The essence of freedom of choice is to give you the freedom to do what you like; but, once you start putting in checks and balances, is it really freedom of choice? I am saying that the ideology is good in principle, but the practical reality is that you have got to take into account all the different options that will crop up. As the previous speaker said, you really need time to implement all of this. It is good in principle to do it, and I support that, but you actually need the time to get this whole bandwagon on the road.

Senator CHRIS EVANS—I was going to ask a question about payment of employer contributions and the deadlines, but I think Senator Conroy will really want to pursue that matter, and so I will leave it. I have a question related more to how you see us solving the problems you identify. You are basically arguing for one implementation date, and for all past contributions to be subject to the choice. I gather that the argument against that is what it might do to the stability of the funds if everyone suddenly were allowed to move their accumulated funds. What is your answer to that?

Mr Sun—If you are looking at it in the long term, that is what is going to happen anyway. Let us say you say to the superannuation member, 'You cannot move your funds in 1998.' I am sure that, by the year 2002, amendments will be made to say everybody can move their funds around. The issue will occur—if not now, then later. It is something that will have to be addressed at some point.

Senator CHRIS EVANS—In the meantime, you suspect that we will end up with people with their past contributions in one fund and their future contributions in another fund, do you?

Mr Sun—Very likely. It will cost the members a lot of money, particularly if they are in the wrong fund.

Senator CHRIS EVANS—There would be a proliferation: you would be adding to the number of accounts in that way, wouldn't you? Those that chose to put their future contributions into a different fund would, by definition, therefore have at least two funds: the one in which their past contributions were contained, and the one in which their future contributions would be contained.

Mr Sun—Recent statistics show that there are about 2.6 accounts for each member. If you take the scenario of a casual who works in the personnel area, they might have three accounts, because each agency uses a different fund. They were not fortunate enough to be regulated as tightly under the awards as other industries were. You might have a fund that is a master trust; you might have an industry fund, for example. You already have the scenario where there are multiple funds for an employee, even as we speak.

Senator CHRIS EVANS—I think that everyone in the game is committed to reducing the number of accounts. What you are arguing in this submission is that the provision of choice will in fact multiply the number of accounts.

Mr Sun—It will inevitably do that because, if you are in a bad fund and you are not allowed to move it, you will have to keep it there, so you will choose a better fund because the ability to do so is available and competition will drive that. People will start comparing things like fees, costs, insurance benefits and those sorts of things.

CHAIR—What about once a year choice? Would you like to comment on that?

Mr Sun—It is good and it is bad. It is good in the sense that obviously it will allow the super fund trustees and employers to do their paperwork diligently. It does not really help the member who wishes to move. They may, for whatever reason, be given advice halfway through the year and, as I said earlier, the advice might be, 'Look, this particular fund won't actually do what you want it to do and you will need to address it in a different way and move your fund.' The employer will say, 'Sorry, we can't do that. We can only do it in six months time.' In six months time, as the stock market moves on a day to day basis and does not stay still, that could be costly to the member.

I know that, on the American scene, fund members can change their investment choice within the fund on a minute by minute basis. At the end of the day, of course, the last decision will be the final choice. So, who knows what the answer is to that one?

CHAIR—As there are no further questions, we will break until 11 o'clock. Thank you very much, Mr Sun.

Proceedings suspended from 10.42 a.m. to 10.59 a.m.

GRENFELL, Mr Colin, Superannuation Consultant and Actuary, William M. Mercer Pty Ltd, 101 Collins Street, Melbourne, Victoria 3000

PARTRIDGE, Mr Stephen Mark, Principal, William M. Mercer Pty Ltd, 101 Collins Street, Melbourne, Victoria 3000

CHAIR—Welcome. We always welcome the high quality submissions from William Mercer. You will have noticed that their comments feature prominently in our reports. So thank you not only for your submission but also for making time available to appear before the committee and to answer questions. I invite you to give a brief background, from the perspective in which you appear before the committee today, and also to highlight the issues that you have raised in your submission. Then we will ask a number of questions.

Mr Partridge—Thank you, Senator. First of all, I would like to say a few words about Mercer. Senators may not be aware that Mercer is the largest firm of superannuation consultants in Australia, and the world—it is a worldwide firm. I am a principal of Mercer and Colin is a superannuation consultant and actuary. We gave a fairly lengthy submission and we propose today to just run through 14 points, where we recommend possible changes to the legislation to improve it.

Before I do that, I would like to say that Mercer welcomes choice of fund legislation. We think in principle it is a good thing. Our comments are mainly aimed at improving the legislation so it can be more effective in what it is intending to do. We would also like to compliment the government on the quality of the drafting of this particular bill which we thought was good.

We have handed out to you a document which lists the points where we think a few changes would improve the bill. First, and most importantly, we think it is necessary to put off the application to new employees. We believe 1 July 1998 is just impractical. We recommend it be put back to 1 July 1999. We can expand on why if senators are interested.

CHAIR—For both streams—new employees and existing employees?

Mr Partridge—We believe 1 July 2000 for existing employees is practical. It is just that the 1 July 1998 start date for new employees, with the best will in the world, is not manageable.

The second point is that we believe education of employees and employers is critical. We suggest that there is a need for further budgetary resources to be devoted to an education campaign aimed at both those groups. The third point is that we think there are problems with the timing of superannuation guarantee obligations in that there is effectively a time frame of almost four months to complete all the choice of fund requirements—28 days to offer choice; 28 days for the employee to accept it; two months to choose the fund—and we cannot see, for employees that join in, say, May or June, how you can possibly meet the 28 July SG deadline. So we believe that needs to be tidied up and to allow some further leeway.

We also think an employer who misses the deadline—even if the deadline is put back a few months—should be given the option of contributing direct to a fund, whereas the current

legislation gives them no choice but to fill in an SG return to the tax office and go through the whole rigmarole of having that money go through the tax office and back to a fund.

The fifth point where we think there could be an improvement is that the current penalty for an employer not meeting the choice obligation results in an extra 25 per cent of the SG contributions finding its way back into an account in the name of the member. We believe that is inappropriate. Where an employer fails to meet the choice obligations, perhaps inadvertently, a member actually ends up with more money in their fund than someone who does not pay any SG contributions at all. We think it would be better that that penalty just be a fine that got retained by the tax office.

There are a few other points. There are problems with death and disability benefits in that people will fall between the cracks in moving between funds and will not be covered. Many employers would want to provide cover separately from the choice environment to make sure that does not happen. Currently, the tax treatment of those sorts of employer provided benefits is a bit uncertain. It would help if that uncertainty was tidied up.

We believe there are problems with employer groups. There are a lot of large groups of employers where, with the current legislation, if an employee moved between two employers within a group, they would have to be offered choice all over again. We think it would be more sensible if choice was based on groups of employers, rather than individual employers.

We believe that there are down-the-track problems with defined benefit funds moving existing balances, in particular. Choice is a lot more difficult for defined benefit funds and we recommend the government discuss with the Institute of Actuaries at some length before implementing the next stages of choice of fund.

We believe it is critical that the government does not just introduce choice of fund and then leave it there. We think it should monitor the choice of fund regime. There are other countries where choice has led to increase in costs due to marketing and funds trying to attract new members—expensive marketing costs and switching costs. We recommend that the government monitor the choice of fund regime to check whether it is providing the benefits that it is intended to provide.

The final set of action points relates to key features statements. We made a submission to the ISC along these lines. Just very quickly: we have recommended to the ISC that they use communication experts from the industry to help them develop some standard key features statements rather than trying to do it themselves. We believe a single regime for key features statements is essential rather than what the ISC is currently proposing—a shorter form for choice of fund and carrying on with the long form for public offer funds that already exists.

We think key features statements need to have investment return information and fee illustrations that are very heavily standardised. That is crucial so that key features statements are comparable. Finally, we think that some thought needs to be given to key features statements for defined benefit funds. Our view of the best approach there is that there is a reliance on an actuary to sign off that a key features statement provides comparable information to what the member would have had from a defined contribution fund.

So those are 14 points where, we believe, action is necessary to improve the choice of fund regime. Those are scattered in our submission, which is a lot longer than that, but those are the main points. That is all we wanted to say at this stage.

CHAIR—Thank you very much. Mr Grenfell, would you like to make a comment?

Mr Grenfell—No. I think that covers the full ground.

CHAIR—What would be the cost of providing an actuarial certificate to ensure that the key features statement of a defined benefit fund was very similar or identical to the information provided about other funds? What sort of money are we looking at?

Mr Partridge—Not very much at all. We are talking about a single key features statement for the whole fund and we are talking about that being a one-off exercise unless the fund has its benefit design changed, so it only has to be done once. It is going to vary in difficulty, depending on the benefit design, depending how complex it is, but it would be something that I would have expected an actuary could do within a few hours and it would not be particularly expensive.

Senator CHRIS EVANS—First of all, I must say I am in agreement with your general approach to the KFSs. It seems to me that that is really at the heart of the whole problem of choice, that we need to really get this area right.

I am not a great believer in the discussion about education, because I think it is a pious hope. We all believe in education, but people seem to think it is going to solve the problems of the world yet they all have different views about what people will be educated on and what they will be educated to do.

Could you just tell me about your key features statements: how much support do you think there is within industry for this concept? Do you think it is easily achievable in terms of the different types of funds and whether comparisons can be easily made between defined benefit and other types of funds. I just want to flesh out how you see that working and what the problem areas might be in this.

Mr Grenfell—I am happy to lead off on that. There are two key areas: in no particular order, there are costs and there is investment performance. There are other issues but those two key areas stand out. We have recommended that both those areas—fees and charges, and investment performance—require standardisation. Unless there is standardisation it will be quite impossible and, in fact, misleading to try and compare one fund with another.

In relation to fees and charges, we have recommended—and given a small example in our submission—that one possibility is for the percentage reduction in benefits that arises from fees and charges to be tabulated in a small matrix. In our submission there is a little matrix with three different incomes across the top and different periods, in terms of five, 10, 25 and 40 years, down the left-hand side. I have one copy of an example of that, which could be copied and passed around if you would like to see it. I will continue speaking and perhaps come back to that.

We believe that, by that approach, it is possible to standardise and bring out the impact of fees and charges for all types of funds. It requires various assumptions and so on to produce that table but they would be, in a sense, behind the scenes. They would be specified by the ISC, we would very much hope in consultation with the industry in developing them. The member would then just see that table that I will give you an example of in a moment, which would show the percentage reduction in benefits caused by fees and charges.

The Institute of Actuaries has indicated an alternative to that, which is also on the table for consideration. It would show, effectively, the yield that is lost. It is a similar concept but instead of showing the percentage reduction in benefits caused by fees and charges it would show the investment yield that has been lost as a result of fees and charges. The handout that is being photocopied shows both examples.

In relation to investment performance—

Senator CHRIS EVANS—Before you get onto that, what is wrong with the alternative of having a standard fee and charge? In other words, rather than allowing people to charge an administration fee, a commission fee and what have you, which seems to be where costs get hidden and requires the sort of solution you are talking about, what about the option of mandating that there should be one flat percentage fee which would cover all costs and charges applied by the fund? You would mandate, therefore, that the costs have to be comparable because they can only be charged in one way.

Mr Grenfell—I do not believe that that is in any way possible. The services provided by different plans vary enormously and the circumstances of individual members vary enormously. They change from time to time. They are at a certain level when the plan commences, or when the member commences, and they change over time. There is enormous diversity of fees and charges in the marketplace—and that, as you have indicated, gives rise to confusion. But we believe that the onus could be put on the trustees to bring out, in the manner that we have described, the impact of all fees and charges, no matter how they are defined. That is a matter for the trustees. They would have to disclose the impact of the totality of their charges.

Mr Partridge—I think it would be very dangerous for the government to attempt to force funds to go down a certain path of how they levy their fees and charges. It would be similar in concept to forcing them to invest in certain ways. It just does not seem a reasonable approach.

Senator CHRIS EVANS—We have forced them to collect six per cent. In effect, it is a taxation system administered by the private sector.

Mr Partridge—You are forcing the employers to do something there, rather than the funds themselves. We think that disclosure is a much better way to go.

Senator CHRIS EVANS—I was just floating it as an alternative route.

Senator CONROY—Yesterday we had the question of potential cross-subsidisation and the capacity to hide your fees in different ways. Some people talk about RSAs being free,

with no charge, as if suddenly we have discovered a free lunch. How do you take into account the hidden aspects of cross-subsidisation in those yield questions? Is it possible to address them through the yield? If this is the defined set that you have got to make the calculation against, yet people are finding a way to effectively disguise their fees in another form and provide a free RSA when in actual fact what is happening is the union rate, how do you address that in your formula and in the yield?

Mr Grenfell—The question is extremely pertinent. I think the only example is RSAs which just do not fit into this mould, and the only reason they do not fit into the mould is that effectively their fees and charges are met by the interest margins. One way of addressing that could be to force the disclosure of interest margins. That would bring it into a direct parallel and you could enter into these tables in exactly the same way. We did not go that far in suggesting that but that—

Senator CHRIS EVANS—That would drive banks out of the industry.

Mr Grenfell—That would be the way of bringing it into line. It is a matter of facing up to that issue or not. If you face up to that issue then it falls into the regime, and if—

Senator CONROY—If you want a level playing field in terms of information.

Mr Grenfell—Exactly, yes. If I could speak briefly to the handout that has been—

CHAIR—Just before we do that, is it the wish of the committee that the two handouts that you have given to us—which might be annexure A and annexure B—be incorporated or tabled, gentlemen?

Senator CHRIS EVANS—I think if they were to be incorporated the actual table might be useful, Mr Chairman.

CHAIR—And also the recommended action points.

Senator ALLISON—Chair, can I just ask what this is, first of all?

Mr Grenfell—Could I explain it? Is that in order, Senator?

CHAIR—Could we perhaps put a header on it, rather than just call it annexure B? Could you just give us an appropriate title we can write on it?

Mr Grenfell—Summary: fee illustrations.

CHAIR—Annexure B, fee illustrations. Thank you very much. Is it the wish of the committee that the document be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The documents read as follows—

Mr Partridge—Senator Watson, would it help if we supplemented this later with a sort of written thing that goes with it explaining how it all works?

Senator CHRIS EVANS—I suspect, as Mr Grenfell tries to do it in two or three minutes, we will probably realise that that will be useful.

CHAIR—Thank you very much. Yes, we would appreciate that supplementary submission.

Mr Grenfell—Senator, could I speak briefly to it?

CHAIR—Yes.

Mr Grenfell—It relates purely to the example of a fund that has, as set out at the top, an administration charge of a dollar per member per week and investment fees of 0.6 per cent per annum. They are typical charges, although in many cases it is less and in many cases it is more.

The left-hand shaded box corresponds to the figures that are in our submission, and that is the first possible way of showing the impact. It shows for, say, a five-year term, benefits would be reduced by 4.2 per cent because of the impact of those two fees that I just described for an income of $20,000, and the rest of the table follows exactly the same concept. So each figure in the table shows the percentage reduction in benefits.

The shaded box immediately underneath is exactly the same concept except that it shows the investment performance which is lost by the fees and charges. And we are not suggesting that both be put forward; we are suggesting that either is workable. I would be interested in the views of other parties as to which is the preferable approach.

Mr Partridge—Another way of looking at it is to say that the figures at the bottom are the extra return you would have to get to make up all the fees and charges. That is another way of expressing it.

Mr Grenfell—The remainder of the figures just bring out the impact of the administration charges in isolation and the investment fees in isolation. The key parts are the shaded parts. The entire table would not be put in front of a member; only one of the six boxes would in practice be put in front of a member. It would become the standard adopted. It has just been set out this way to give a greater understanding of the components of it. The idea, I should put forward, comes from the Institute of Actuaries. Mercer is merely endorsing the proposal from the Institute of Actuaries.

Senator CONROY—I have one question to do with key feature statements, and I raised it yesterday. It is a bit of a bugbear of mine in terms of the way funds disguise their earning rate as opposed to their crediting rate—reserves, skimming, padding, that sort of thing. Would you believe it is fairer to make them promote the actual earning rate rather than the crediting rate? The colour graph is of the crediting rate rather than of the earning rate. I am a bit of a sceptic: I think they are just getting away with a bit of licence. But that is not a

view shared, necessarily, on the committee. I am interested in your views on what should be the focus on the KFS.

Mr Partridge—We believe the focus should be on the earning rates because they drive the crediting rates in any case. We believe that to show a history of both, say, for five years, would be somewhat confusing to members. So we would suggest focusing on the earning rates together with an explanation of the crediting rate policy, and the current level of reserves.

CHAIR—The terminology that is used here may be difficult for a lot of people to comprehend. I was just wondering whether you might put some notes that say 'Extra return required' in addition to the crediting rate or something like that.

Mr Grenfell—I think what might help is Steve's suggestion, and perhaps we can come back to you with just a little example of exactly how it would be communicated to a prospective member of a superannuation fund. So there would be some words surrounding it. It would not have six boxes; it would only have one box.

Senator CHRIS EVANS—If it was able to be understood by the average senator, we would be quite convinced that the average punter would understand it as well. It would be a good test.

CHAIR—Could you elaborate on the detail required in terms of the discussion that you believe it is necessary to have with the Institute of Actuaries in relation to defined benefit funds?

Mr Partridge—There are several steps in introducing choice. The first step is for new employees for future contributions. The next step, which is proposed from 2000, is for existing employees for future contributions. Following that, at some stage, the government's policy is to apply choice to existing balances in accumulation funds. It has not actually said anything about existing balances and defined benefit funds. But we think that is where it is headed eventually and you will have choice over everything.

One you get to, in particular, existing accrued benefits and defined benefit funds, there are some difficult issues about how those should be calculated. There are difficult issues in that defined benefit funds are such that you cannot have people joining and leaving every 12 months at will. They could pick and choose the right time and, in actuarial terms, select against the fund, if you like. There may be issues with some funds in terms of portability. If you have a fund that is not very well funded and a whole bunch of its members want to go out and take their accrued benefit, it might end up a lot worse funded.

There are a whole heap of little issues which need careful consideration before you head to those last steps of complete choice. I think the Institute of Actuaries is best placed to help the government work through all of those.

CHAIR—Do you think a person who has withdrawn from a defined benefit fund should be able to come back?

Mr Partridge—If they were allowed to come back, there should certainly be some constraints on when and how often they are allowed to exercise that choice. In practice, it may be that the only solution is to not allow them to come back once they have opted out without, perhaps, some approval from the trustees of the fund and the employer.

CHAIR—Do you anticipate there will be any disputation in terms of the choice issues? If superannuation is taken out of awards, we have been told there will be no arbiter. How should that issue be addressed?

Mr Partridge—That is a good question, particularly now that we have a Superannuation Complaints Tribunal whose jurisdiction is in some doubt. Of course you always have the court system to work through those disputes but that is, as people have mentioned in the past, expensive and slow. I am not sure I have a good answer to that question.

Mr Grenfell—I could offer a suggestion based on my experience, mainly in the insurance industry. I think the area where members will get into greatest difficulties is fees and charges: misunderstandings arising from fees and charges will give rise to the vast bulk of the complaints. That is the area of absolutely critical need for standardisation of disclosure of the type that we have previously discussed. If the total impact of the fees and charges is disclosed, there will be less room for complaints.

Mr Partridge—I think one other area of potential dispute is in relation to death and disability benefits for people who end up not being covered because of being in between funds or not having satisfied the new fund's evidence of health requirements and that sort of thing. I think the only real answer to that is very effective disclosure of death and disability benefits and the consequences of exercising choice.

CHAIR—As part of the key feature statement?

Mr Partridge—Yes.

Senator HOGG—How long do you think it would take to get a standardisation of fees and charges throughout the industry, given that various funds and various companies would do it in different ways now? You are going to try and bring them all into line. Your proposal advocates deferring this until 1 July 1999. Is that sufficient time to get a standardisation, and not only to get the standardisation but to test it and to make sure that it works?

Mr Grenfell—Could I stress that we are not talking of standardising fees and charges.

Senator HOGG—No, I am talking about the format. Some may well have to change whole computer packages, and so on, to get some form of standardisation.

Mr Grenfell—I do not believe there will be a need to change computer systems. The funds fees and charges stand; they are a given. All that is required is a calculation on top of that to bring out the impact. That calculation of the percentage reduction in benefits is a quite straightforward calculation. I think that could be introduced without too long a delay.

Senator Hogg—Is there a need to test to see that you are comparing apples with apples across the industry and, if so, who would do that?

Mr Partridge—I think there is a need to test whether this is going to work for all funds. We thought of one example where it might not work in practice and, when you test it, there might be others. We do not think that is a major problem area and it is certainly achievable by July 1999.

Senator HOGG—Who would be responsible for doing that, in your view?

Mr Partridge—We believe the process should be for the ISC to produce a draft paper indicating that this is how it proposes that funds should disclose fees and charges. Open that to the industry for discussion and take feedback, adjust it, make minor adjustments and then issue that as an ISC determination.

Mr Grenfell—I think the most appropriate vehicle would be a determination from the ISC.

CHAIR—Should the key feature statement attempt to define or describe risk?

Mr Partridge—We believe it should. We believe risk is critical. It is no good looking at investment returns without also making people aware of the risks attached to those returns.

CHAIR—How do you do that? Do you categorise it?

Mr Partridge—That is a good question. We do not have the complete answer but we believe the answer lies in the area of expressing risk in simple terms as perhaps the probability of a negative return on certain standardised sets of assumptions or the number of user negative returns you would expect in 20 years and that sort of thing.

Mr Grenfell—I believe part of the answer lies in the need for the KFSs to be supplemented by some, what we call, generic material. We envisage that the KFSs would be specific to the plan. We recommended to the ISC that in addition to the KFS you need some generic material about superannuation. It would cover issues like risk and return, preservation, taxation, the Superannuation Complaints Tribunal—if it exists—and all these issues that relate to the market as distinct to relating to the plan. We are encouraging the ISC to make available these generic statements that would supplement the KFS.

CHAIR—In the form of a booklet?

Mr Grenfell—A booklet or a few standard pages. They would enable the KFS to be smaller and sharper and relate just to the plans, and take out the market information and place it separately. By doing that we could partly address the issue you have raised. There should be a few paragraphs in the generic material that explain in simple terms the issues of risk and return and establish some terminology. Then, all the plan has to do is pick up its own specifics, the framework having been set. A lot of the work could be done in generic material.

Senator HOGG—My question follows on from that. How do we convey this to a population where one in 10 are illiterate or innumerate?

Mr Grenfell—That is a huge challenge. That is probably the paramount reason for recommending a delay in the implementation of this initiative. The need for public education is enormous, and it is a huge task.

Senator HOGG—Who should bear the cost?

Mr Grenfell—A fair bit of the cost could be met from the levies that are payable already by the superannuation industry. Those levies far exceed the ISC supervisory expenses. There is an excess of, I believe, approximately $30 million of accumulated fees over accumulated expenses. I believe that could be appropriated to meet a lot of this expense that we are discussing.

Senator CHRIS EVANS—Do not take it personally but, if the education system of this country has not dealt with one in 10 people having illiteracy or innumeracy problems, no education campaign run on behalf of the superannuation industry is going to overcome that problem. That is where, really, we have to come back to. I have nothing against an education campaign that will deal with some of the people, but it will not deal with those fundamental problems in society. We really have to come back to consumer protection and ensure that the legislation provides the protection that people who will not be well educated about superannuation are going to require.

At every committee inquiry we have ever had, people always say to us that we need an education campaign to explain the changes or whatever. Yes, they are right, but it does not actually take us anywhere in terms of dealing with the fundamental issues. I do not like us having a debate that assumes that an education campaign is going to fix the problems.

Mr Grenfell—You need to hit it on all fronts. An education campaign is part of it.

Senator CONROY—I know you are looking at the pragmatic, practical side when you talk about the two months after 28 July. Also, in your submission you talked about supporting removal of super from the award system. I wanted to talk to you about compounding. The majority of the public would probably be uneducated about the importance of it. Many employers now take advantage of just paying once a year into their SGC. I have concerns that allowing them a further two months is further reducing the returns based on compounding.

Obviously, funds going in monthly is better in terms of returns to members than funds going in once a year. Supporting the removal from awards where many awards have monthly requirements is probably contrary to most of the other things that you value in terms of trying to enhance national savings and those sorts of things. I am interested in your comments on the potential for people to lose out, the actual members rather than the practical problems of the employers. I accept that there are practical problems. I am interested in how you find that balance, or what your perception of that balance should be?

Mr Partridge—You are quite right. Obviously, the later the contributions get paid, the less the members are going to end up retiring on. We think that the practicalities for employers are quite significant. The way the legislation stands at the moment, if somebody joins an employer on 30 June, the employer has only until 28 July to get that contribution into a fund. It has to give the employee 28 days to make a choice, so they may not get the employee's answer until 28 July.

Senator CONROY—Would a three-month period of grace for entry be a way of addressing that? That is a very real problem. I accept the point you are making in terms of people joining later in the year. But, if there were legislation which said that when a new member joins a fund there will be three months for it to work through, even if that takes you past 28 July or whatever the date is, that would be a way of addressing that problem without reducing the compounding effects of getting a regular payment in there.

Mr Partridge—There are a couple of answers to that. One is to add interest after 28 July or some other date if people pay later than that. Another way is, as you suggest, rather than just putting it back from 28 July to 30 September or something like that as a blanket rule, you put the date back for people who join after, say, 1 April in a year, or something like that.

Senator CONROY—I am also interested in that general principle of the compounding of regular payments. Given that you are supporting taking it out of awards, how would you address the question of employees who then can just write the cheque on 29 June each year and send it in?

Mr Partridge—I guess whatever rules you make, employers, or some of them, are probably going to exploit it as much as they can to pay as late as they can. We do not have an ideal solution to that but certainly the solution is not to make SG obligations payable monthly.

Senator CHRIS EVANS—But you are going further than that; you are actually supporting removal from the awards, which removes a level of, if you like, pressure and compliance currently in the system.

Mr Partridge—Our primary reason for supporting the removal from awards was to simplify the whole regime so that you do not have this layer of award requirements overlaid on the choice of fund requirements. It was simply that. We are conscious of the fact that it has a few adverse side effects as well, but we think that reason outweighs the others.

Senator CHRIS EVANS—Mr Daley from the Liquor, Hospitality and Miscellaneous Workers Union gave evidence earlier and he said they had, I think in the last year, 250 prosecutions in his union alone relating to non-payment of superannuation, mainly in the contract cleaning industry. There is this real issue of compliance and who is going to enforce compliance. By freeing up restrictions, as you see them, the other side of that is the question of whether that will increase non-compliance, if you like.

Mr Partridge—Yes. Perhaps our submission is coloured by our clientele, which tend to make contributions on a monthly basis and this issue does not normally arise. But we accept there are other parts of the industry where that is an issue.

Senator CONROY—I guess we all look forward to the IRC going back to the quarterly payments in the legislation that they suspended a few years ago and that would possibly—

Mr Partridge—I am not sure because quarterly payments and the choice of fund together are going to create some administrative problems which need careful thought before we go back to that quarterly payment.

CHAIR—Could you elaborate on your recommended action points in terms of creating tax certainty for employer funded death and disability benefits?

Mr Grenfell—This relates to the provision of death and disablement cover outside superannuation. Within the superannuation sphere, the tax situation is quite clear but there is some uncertainty about employer provided, non-superannuation death and disablement cover.

Mr Partridge—It is a very complex area, which we do not think it makes sense trying to go into the detail of here. We do not have time. But there are questions if employers do decide just to pay death and disability benefits direct from their own finances to people as a way of stopping them from falling between the cracks. There are questions over deductibility of the premiums and there are questions over whether the premiums are subject to fringe benefits tax and those sorts of questions, which really could do with being clarified in the tax act.

CHAIR—Could you give us a paper on that addendum?

Mr Partridge—We certainly could.

CHAIR—That would help. Thank you very much.

Senator ALLISON—Could you give the committee some advice as to where you think employers will go for advice on establishing their limited choice offers. Also, what are the financial implications of that for the whole industry?

Mr Partridge—That is a good question. Our clients, we would hope, are all going to come to us and ask us to help them with that. There is no doubt there will be some providers out there that set up a one-stop shop—some of the big life offices and whatever providing all the four funds within their own umbrella. Maybe a lot of small and medium employers will go to those people to set it all up for them. There will be firms like ours that will be doing the same sort of thing in setting up as a one-stop shop that employers can go to, with ready packaged sets of funds.

Senator ALLISON—What will that advice cost per employee?

Mr Partridge—It is going to vary all over the place, depending on the size of the employer and exactly how much advice they need. I am not sure I could answer that question.

Senator ALLISON—Are you giving that advice already, or what stage is your organisation at in readiness?

Mr Partridge—I think that, before the legislation is passed, most of our clients are not going to get to that step. They are currently looking at strategic issues such as whether they should stay with their own fund, what improvements they need to make to make it competitive and which of these routes—unlimited choice or limited or agreements—they are going to use. There would be few if any who would have got to the stage of actually selecting a package of four funds.

Mr Grenfell—That sort of decision, I believe, will not take place until after the legislation and the regulations are in place. You need both before you can get into that issue.

Senator ALLISON—Would you be in favour of a prohibition on commissions and any limit on the amount of money which could be spent on advertising campaigns?

Mr Partridge—I do not think we would. We would be in favour of disclosure of the effect of those commissions and advertising campaigns on the cost to the member of their superannuation.

Senator ALLISON—So you would be in favour of disclosure on the KFS?

Mr Partridge—Of disclosure of anything that affected the cost to the member of their superannuation.

Senator ALLISON—But specifically nominated and isolated?

Mr Partridge—I am not sure that we would be suggesting that different costs be split down into every element. I think what is important is that the member knows the effect of all of the costs that are being charged to them, whatever the causes might be and however they are charged—contributions or exit fees or whatever.

Senator CHRIS EVANS—Where would commissions and advertising show up in your draft cost structure comparison?

Mr Partridge—Commissions would typically lead to an entry fee, which would be incorporated into our cost comparison.

Senator CHRIS EVANS—Under which item would they appear?

Mr Grenfell—They would come out as one of the reasons for a reduction in benefits, in that top left-hand table, for example. They give rise to an increase in fees and charges.

Senator CHRIS EVANS—But how would they be described—as an administration charge?

Mr Partridge—They are not included in this particular comparison because this example does not have an entry fee. But where there is an entry fee we would have it listed as an entry fee and it would be incorporated—

Senator CHRIS EVANS—So you would describe a commission as an entry fee, would you? You think that would be the best way to do it?

Mr Partridge—We think what is important to the members is what they get charged, rather than what that intermediary may be paid. Do you agree with that?

Mr Grenfell—Yes.

Senator CHRIS EVANS—I just want to get this clear, though. What is or is not important to the member may, obviously, differ between members, and some would be concerned if they thought there was excessive commission being paid rather than going into what they saw as the proper operation of the fund. Do you think that on your recommended KFSs we ought to express the commission as a separate item or as an entry fee or what?

Mr Grenfell—Commission disclosure is a separate requirement of the public offer current regime. We are not really suggesting any changes in that area. Commission has to be disclosed in a certain manner and we would see that continuing. Our focus is quite separate; it relates to the impact of fees and charges.

Senator CHRIS EVANS—We had an example this morning of a fund charging three per cent of contributions as a commission. Clearly that is a pretty significant issue. I am just trying to tie you down as to whether that should be on the KFS.

Mr Grenfell—I believe it should be on the KFS but it should be disclosed as a separate item relating to commission, quite separate from the disclosure of the impact of all the fees and charges. We have not made recommendations in relation to the former; we have only made recommendations in relation to the latter.

Senator CHRIS EVANS—What about the advertising costs that Senator Allison raised? How do you think they should be treated?

Mr Grenfell—They will give rise to a fee or a charge. To the extent that they cause fees and charges to change, the impact of that will be shown.

Senator ALLISON—How will this KFS cope with changes in those fees and charges that might arise from advertising? Presumably there will be a lot of flurry with advertising initially and then subsequently not the same need—or maybe not. How will the statement cope with those sorts of fluctuations?

Mr Grenfell—We recommend that the KFS would have to be updated at least once a year. There will be all sorts of changes that occur. We recommend a maximum period of

12 months—or perhaps you need 13 months rather than 12 months, if you want to tie me down. The problem with doing it every 12 months is that, if in one particular year you manage to do things very promptly and smartly, when you have to do the following one 12 months later you may not be as lucky the second year round. So it may have to be a maximum of, say, 13 months in practice.

Mr Partridge—I think as well it would have to be changed every time the fee structure changed significantly within that 12 months.

Mr Grenfell—That is correct.

Senator ALLISON—Would exit fees be in that same category?

Mr Grenfell—Yes. It is terribly important that the impact of all fees and charges, no matter how they are defined—and there are many, many ways of defining them—be shown. The ISC's thrust, we believe, should be to focus on the impact of all of the fees and charges, no matter how expressed. That is what the consumer would expect at the end of the day. That is what matters.

Senator CHRIS EVANS—You mentioned earlier the question of a choice package being developed by various financial houses, et cetera, for employers. I wondered what you thought, in a philosophical sense, about that. Is that really choice for the employee, if there is going to be a package with the same financial institution of four different options presented as a package to the employer? Where does the real employee choice come into that sort of scenario? It is a very limited choice, isn't it, in that sense?

Mr Partridge—I guess it is a limited choice in that you have one provider instead of four providers and therefore a bit less diversity, but you still have one RSA or capital guaranteed fund and one public offer fund—you have to have different types of fund within the package. Presumably, if people want to make a package attractive, they are going to have a package which has a variety of investment options, for example.

Senator CHRIS EVANS—They are tied to the success or failure of the one financial institution, in a sense, though, aren't they? Do you think that is a limiting factor?

Mr Partridge—I suppose that, if it is a dodgy financial institution that goes bust, probably yes is the answer. In practical terms, I do not think that is necessarily going to be an issue.

Senator CHRIS EVANS—I am just teasing these issues out. For instance, certain institutions have certain investment practices in terms of whether they invest in ethical investments or what have you. You are then locked into that one institution, and I wonder where the concept of employee choice comes in in all that.

Mr Partridge—We would not necessarily support the ability of one institution to provide a four-fund package, or necessarily have any strong views either way on that.

Senator CHRIS EVANS—I am not trying to put you on the spot. I just wanted to tease out where that takes us in terms of the philosophy.

Just briefly, what is your view on the disclosure of the relationship of the employer to the funds being offered as a choice? What form of disclosure and how detailed ought that be in terms of any financial relationship between the employer and the funds offered?

Mr Partridge—I am not quite sure. Could you clarify that?

Senator CHRIS EVANS—For instance, if I am the employer and I bank with the Commonwealth Bank, and I have got a business loan with the Commonwealth Bank for $3 million, is it appropriate for me to offer to my employees a choice of four funds all sponsored by the Commonwealth Bank, and should I disclose to my employees that I have a relationship with the Commonwealth Bank as part of this sort of KFS approach?

Mr Partridge—It is a good question. I am sure if I was an employee of that employer—I am not sure I can speak for Mercer in answering that—I would want to know that that relationship was there. But, at the end of the day, if the KFS is comprehensive enough, those employees at least are going to know what is involved in each of those four funds and, if they are four not very good funds, they can at least put some pressure on the employer to do something about it. But my own view is that that sort of relationship probably should be disclosed.

CHAIR—You mentioned that, in the US, under choice, people are tending to go for the very conservative type options. This may not provide the best final benefit on retirement. How do we encourage people to take risk?

Mr Partridge—That is a very good question. We see that as one of the biggest dangers of this, that there could be lots of people who do not know much about investment out there who will think RSAs, for example, are safe and sound and it is the best place to put their money for retirement, whereas in fact they are going to lose out significantly by making such a choice. The only real answer to that lies, as we spoke about before, with education. But, as Senator Evans said, there is going to be that small proportion of the population we do not get to, and they—unfortunately, I believe—are going to make those inappropriate choices.

CHAIR—You say that you were discussing with a number of your clients the prospect of looking at superannuation and what the company should be doing about it. Could you just elaborate on that? People are becoming concerned about aspects of managing, say, their own superannuation fund?

Mr Partridge—I think employers, with choice of fund, are having to make a fundamental decision as to whether they want to run their own fund in the long term or whether they do not, and lots of them will make both decisions. But there are only two logical decisions. You can say, 'Well, we are going to compete in this environment and try to provide competitive returns and low fees,' and that is going to be pretty difficult to do unless you are a fairly sizeable employer, or you are prepared to pay more than the superannuation guarantee contribution to your fund as opposed to the others.

There will be lots of employers, though, that will say, ‘Well, why do we have a fund? We are not prepared to pay more than the SG contribution into our fund. There are other funds out there that can provide lower fees than we can, so why are we in this business?’ And they will fold up their funds and put them into master trusts and things like that. Employers are just going through that thinking process at the moment.

CHAIR—You believe that with choice there will be a greater move to commonality between earnings and crediting rates because of competition?

Mr Grenfell—The answer is yes. Some people in the marketplace have suggested the two will come together and that there will be no further reserving. I think that is an extreme. The more realistic position is that the level of smoothing, the level of reserving, will lower, but I do not think it need necessarily disappear.

CHAIR—Would the alternative be to have greater cash holdings?

Mr Grenfell—That depends on the answer to a number of other issues, in particular the government’s approach to existing balances. We have recommended a very cautious approach to that. There are a number of issues to be thought through; there will be a need for certain restrictions et cetera. We are very pleased with the fact that the proposal focuses first of all on contributions. It gets that settled down, which will be a huge task, and then moves on to existing balances at a later date.

Mr Partridge—Senator Watson, I would answer that question by saying that I do not believe people will get more cautious as they take away reserves. I think it is more likely, based on the experience of our clients, that funds will try and educate members to expect the occasional negative return and to live with more volatility than they have been used to, and that we will not necessarily see more cautious investment approaches.

CHAIR—Thank you very much. As usual, it has been very interesting. Thank you very much for giving us your time and for the quality of your responses.

[11.58 a.m.]

PRAGNELL, Mr Bradley John, Superannuation and Financial Planning Consultant, Australian Society of Certified Practising Accountants, Level 3, 111 Harrington Street, The Rocks, Sydney, New South Wales 2000

WYATT, Mr Murray William, Chairman, Superannuation Centre of Excellence, Australian Society of Certified Practising Accountants, 170 Queen Street, Melbourne, Victoria 3000

CHAIR—Welcome. I invite you to give a bit of your background and the perspective from which you come, and to speak briefly to your submission. Following that, we will invite questions from the members of the panel. Mr Wyatt, you have appeared before a committee before. Mr Pragnell, is this your first time?

Mr Pragnell—Yes.

CHAIR—Feel comfortable; it is quite an informal questioning arrangement. We want to get a sound long-term solution to this question of choice and we have to report to the parliament reasonably quickly. But, if there are aspects that you would like to take on notice, please feel free not to answer a question but to take it on notice and give a more informed opinion at a later date. Some of the issues are fairly technical.

Mr Wyatt—At the outset, we would like to talk about the role of excluded funds within a concept of choice. They have been the fastest growing, based on ISC statistics. There are approximately 160,000 excluded funds. To us, self-management of those excluded funds is the ultimate expression of choice. It places pressure on the alternatives in terms of returns and fees. Excluded funds seem to be available under the concept of unlimited choice. They may be a little hard to offer DIY as part of limited choice, due to disclosure problems with key features statements. They seem to be available under the concept of an informal agreement.

What we would like to see are regulations providing and highlighting the excluded fund availability. If you go through the legislation, you can see that they are available, but it is a bit of a process to get there, because of not being specifically highlighted as an option, notwithstanding the further considerations in relation to excluded funds from the Treasurer's statement of September 1997 in terms of what the definition of an excluded fund is going to be. So we would like to see the role of excluded funds being more defined within the legislation.

The second issue I would like to raise is in relation to education. On the basis that any choice needs informed choice, and that there is a need to raise the level of financial literacy, we see a danger that education is going to be confused with marketing, selling and the provision of information. In the past, the regulators—which is the tax office and the ISC—have focused on ensuring compliance. We think there is a necessity for a much wider focus on the issues and a desperate need for product-neutral educational material. In any case of getting an informed choice it is essential that we have this product-neutral information. In terms of ISC involvement, from reading their draft on disclosures the ISC does not intend to

pre-vet point of sale material, trustees do not have to lodge the documents, and the basis for that was not pre-empting the ASC approach.

Taking a bigger picture, and in that context, it is the actual return that members can expect. At a wholesale level there is an industry standard and Investment Funds Association has a retail level which is coming in in July 1998. The education of what the actual returns are on the funds seems to me a critical part of the disclosure requirements in relation to choice, especially if you look at it in light of the UK experience, compared to the US experience, with the 401(k) plan.

The third issue is a grey issue. It relates to employers providing investment advice. The bill absolves employers from legal liability regarding choice. It does not absolve them if employers unwittingly provide investment advice, and there is a danger that employers interpret the legislation as protecting them from all responsibility. The employer provides information regarding choice, not specifically financial advice, and there is a fine line between information and advice which I think needs to be focused on. Brad has a couple of issues to raise in relation to the earnings base.

Mr Pragnell—I would just like to comment quite quickly about the earnings base issue. The choice of fund legislative package sees superannuation being removed as an allowable matter from the Workplace Relations Act. One of the ramifications of that, as I am sure committee members are well aware, is that it would mean that the earnings base that comes from awards can be used by employers when determining their superannuation guarantee obligations.

Section 32T of the legislation that we are discussing allows employers to effectively grandfather an award determined earnings base to calculate the SG, even when that award provision is no longer enforceable. While we do understand that this has been done to ensure that employers are not faced with a higher rate of superannuation guarantee obligations if they had to pay ordinary time earnings, we do feel that this provision could lead to some problems in terms of employer compliance. For instance, employers will be relying upon award provisions that are no longer enforceable. There could also be a problem with employee misunderstanding. Employees will have their superannuation guarantee paid on an earnings base of a document that, in a sense, does not really have any legal standing.

Lastly, in relation to the earnings base, there is the issue of enforcement. The legislation provides for the employer to make that contribution on the basis of reasonable assumption. We would have some concerns about where that line would actually be drawn. It could be a bit of a legal difficulty for both employers and the ATO in terms of determining reasonable assumption of an employer being able to carry over an award based earnings base.

Secondly, the removal of superannuation as an allowable matter does have, as we have heard in earlier discussions, further ramifications. I am sure many of the earlier submissions have dealt with this. Federal award provisions provide for a more frequent payment schedule, often monthly and sometimes on a quarterly basis; whereas a superannuation guarantee only provides for an annual contribution and some federal award provisions provide for more generous support, often in the form of a lower threshold. For instance, the superannuation

guarantee only requires an employer to make a contribution to an employee earning $450 per month, whereas many awards have a much lower threshold—say, $200, $300 or $350.

The Society is of the view that, by allowing employers to effectively grandfather and carry over certain award provisions but not allowing employees to carry over award provisions that benefit them, the legislation could be seen as being quite unfair. This approach could, in one instance, damage the view that the choice package is generally a fair and equitable approach to this.

CHAIR—I am interested in your enthusiasm for excluded funds. From my perspective, I see a lot of problems because we have some conflicts within SIS already. If you are going to offer excluded funds within the menu, you are going to perhaps run foul of the regulator. Once you started offering excluded funds on an arms-length basis, I would imagine that the ISC would look at the conditions much more closely than if it were just a husband and wife type of relationship. That is the first point.

Secondly, you will have a lot of problems with putting forward a key feature statement and with updating that key feature statement. A lot of excluded funds do very well because of their very flexibility. The flexibility that is inherent in excluded funds can cause you problems with KFSs and problems in terms of meeting existing requirements of SIS. Would you like to comment on that?

Mr Wyatt—We are saying that it is hard to offer a DIY fund as part of limited choice, because of the disclosure problems associated with KFSs. We are saying that it is possible, through unlimited choice or through an informal agreement, to have an excluded fund under choice. It is not particularly clear that there is the availability of excluded funds under choice, from the point of view not so much of the employer offering a particular one as of the employee's ability to obtain one.

CHAIR—But you are saying that it should be on the menu.

Mr Wyatt—We are saying that the availability should be explained—as distinct from being 'on the menu'.

CHAIR—I put this question to you, though: is being able to put it on the menu a desirable option, because of the inherent problems associated with offering employees at arm's length to be part of that excluded fund?

Mr Wyatt—From the employer's perspective?

CHAIR—Yes.

Mr Wyatt—It would be that certain employees could be offered that, under that regime. It is more a matter of the availability: an employee who wants to have an excluded fund should be able to go to the employer and have the employer understand that there are available options and a way of providing that excluded fund to that employee.

CHAIR—There are two ways. There is the complete flexibility way. An employee may come forward and say, 'I want my money paid into my DIY fund.' Another option is for the employer to have a DIY fund as part of the menu.

Mr Wyatt—The other way is to have an informal agreement between the employee and the employer that the excluded fund will be part of his workplace arrangement.

CHAIR—What about the employer's responsibilities in ensuring that the do-it-yourself fund is a regulated fund? If he pays money to a non-regulated fund, he has got problems. What degree of inquiry do you recommend that employers should have to make in relation to people who might put forward a DIY fund?

Mr Wyatt—You get an advice from the ISC that your fund is regulated. For payments between funds, the payer fund usually requires a copy of that certificate before making the payment. That certificate could be provided to the employer to substantiate that his payments are going to a regulated fund—as a compliance certificate.

CHAIR—Is the onus on the employer to ask for that certificate, then? I am trying to come back to employer liability where there is complete choice.

Mr Wyatt—For the employer to ensure the tax deductibility, he should be able to rely on that compliance certificate. I have not actually thought about whose the responsibility is.

CHAIR—So you are suggesting that, in all cases—in order to ensure tax deductibility, to ensure compliance, and to ensure it is a regulated fund—the employer actually should write to the fund itself?

Mr Wyatt—The employee in a DIY fund should provide the compliance certificate to the employer.

CHAIR—What if he does not? Should the employer actually then ask for it, or not accept that fund?

Mr Wyatt—In that case, the employer should probably not accept that fund, because of his deductibility dilemma.

CHAIR—So there are some problems for employers who are not fully informed on this area—or there could be, particularly for the more remote employers who are employing very few people.

Mr Pragnell—Could I raise an issue? One thing that could change is the Wallis inquiry recommendations about changing the definition of excluded funds to effectively exclude arms-length members. I do not think the Society has actually issued an opinion on this but, if those reforms do go ahead whereby excluded funds are fine for members who are trustees, as Wallis recommended, then that could resolve that issue of arms-length members.

CHAIR—The more you bring excluded funds into this whole regime, the more you are going to regulate and control them. That runs counter to the original purpose of having a do-

it-yourself fund. The whole purpose of that was to provide maximum flexibility to a limited number of people who are in an excluded fund. Once you start bringing in outsiders who are at arm's length, then the regulatory control that I submit is required is going to be a lot tighter than it is now. This is the danger in trying to bring them in. I just put that as a word of warning.

Mr Wyatt—From my practical experience, when an employee has asked for an excluded fund, in most cases the employer has asked for a certificate of compliance to say that the fund is a regulated fund. I am not saying that that occurs in absolutely every circumstance throughout Australia, but practical experience—as part of the regime of the employee establishing and becoming the trustee of the fund and looking after his compliance responsibilities—means that he understands, through that process of the provision of the compliance certificate and the other burdens that come on, the choices and the flexibility that excluded funds provide.

I do not particularly see that as a significant difficulty in terms of an employer requesting a compliance certificate and, if that compliance certificate is not forthcoming, the right to not make that contribution to that fund. The complying fund issue also comes through all the other funds. It is general; it is not only specific to excluded funds, but also generic through the other forms of superannuation.

Senator HOGG—Do you have a view about the implementation date, which is currently 1 July 1998, for new employees?

Mr Wyatt—I have a comment in relation to the date. We see product-neutral education as a critical issue. We have concerns that it is difficult to have product-neutral education understood. From the previous submissions, I think my concerns are even more enhanced from 1 July 1998 for new members, notwithstanding that the legislation is in place prior to that date. I think it would be difficult if the legislation was not in place prior to 1 July 1998, as well as product-neutral education not being put out into the marketplace.

If you look at the UK experience, you can see that. advertising and marketing material with the non-standard rate of return concepts can confuse employees and have them come to make the wrong decisions, and these decisions are very significant and long-term decisions. Sometimes, going into a fund at a particular stage of your life, that decision is irrevocable by the time you reach retirement age. I see the timing as extremely tight in terms of getting that education concept out into the marketplace.

Senator HOGG—When would you suggest that the package be implemented from? Do you have a prospective date?

Mr Wyatt—There has been a lot of enthusiasm for deferring it for the one year and bringing both new and existing employees on line a year later. Perhaps that would give the concept of choice more time to be digested by the professions, the industry, employers and members.

A question was asked before about how the marketplace is responding to choice. From my practice's point of view, people say it is coming in later and their enthusiasm towards it

is fairly low. It is only as it is becoming mentioned more often in the press and the date is coming closer that they realise they basically have to have the regime in place by 1 July 1998, because that sets the precedent for the flow-on in the following year for existing employees. They have to have, in my view, their policies and structures sorted out by 1 July 1998. The timing of that is undoubtedly tight.

Senator HOGG—On the key feature statements, you said in your submission that you feel that accountants will have the skill and ability to interpret KFSs. That tends to imply to me that you think key feature statements are going to be complex by their nature. Is that reading too much into that?

Mr Wyatt—We are getting towards a very grey area; the line is painted with a six-inch brush in terms of what is investment advice, what is information, where the actual line is drawn, where the legal responsibilities lie, who is in a position to advise on, and product-neutral advice, instead of marketing advice in relation to a particular product.

The fine line in the grey area, to me, is quite wide. What we are saying is that accountants have the academic understanding of those sorts of concepts to read a document. With the education process that the ASCPAs and the chartered institute will be carrying out through the profession, that is an area of disseminating that professional advice as distinct from purely product driven advice, notwithstanding that a lot of accountants now have dealers' licences and operate in the financial planning areas. So there is this grey crossover between the two concepts.

Senator HOGG—Given that, how is the average punter in the street going to make an informed choice as to which fund they should opt for? Given that we have heard figures like 48 per cent of people being in the level 1 and level 2 of literacy and numeracy, how are they going to make an informed opinion, in view of this fine line that accountants and others out there in the community are going to have to tread anyway?

Mr Wyatt—It is my personal opinion that the way, in practicality, it will work is that they will fall upon people within their employer relationship that they trust, and inevitably they will be asking the leading hand or the foreman or someone associated with the employer that they feel that they have some affinity with, 'What would you do?' Then you get to the issue of the employer providing that investment advice as distinct from that employer educating on the choice options.

Senator HOGG—That places a real problem on the shoulders of the leading hand, for example, if the leading hand gives that advice.

Mr Wyatt—Exactly. That is exactly the issue. When does general information about what to do become investment advice? Are employees of a particular company giving that advice? Is that company under the assumption that they are absolved from responsibilities because of the act? Is that advice unwitting advice? There is the whole grey area, and the danger of it becoming all too hard and just being pushed off to someone that is giving product advice instead of arms-length, educational advice of the best interest.

Senator HOGG—So, really, you could end up with the situation that people are not making an informed choice themselves. They are making a choice based on the best advice that can be provided to them by someone in whom they place their trust. And that trust could really be misplaced, depending on whom they place their trust in.

Mr Wyatt—On a look at the UK experience—and perhaps Brad has got a better understanding of some of the issues—it seemed to be that people left defined benefit funds to go into retail product funds, on the basis of either mis-selling or misunderstanding. The issue that we have tried to raise is that the key to stopping that from happening is to somehow get out product-neutral education. The ATO and the ISC previously have been focusing on compliance education. I understand the difficulties that have been expressed, but the key to this is the need for the product-neutral education and the understanding of what some of the concepts and some of the issues mean. The difficulty of that, when there is so much confusion about what is the actual rate of return in terms of reserving policies, crediting rates—all these issues—makes it not a black and white answer but a very complex answer. I think what you are alluding to is that this has the potential to be an absolute mess.

Senator HOGG—Yes.

Mr Wyatt—We would agree with that. The key to its success is raising the general understanding and awareness of financial affairs, as seems to have happened under the US 401(k) plans. Brad, I do not know whether you could add anything to that.

Mr Pragnell—It is obviously going to be a serious problem. The general person on the street is going to have serious problems understanding these rather complicated concepts. But we need to be able, as Murray said, to get that kind of education out into the streets. Obviously, people are all not going to be financial wizards, but we have to be able to give the majority of the population the basic tools—we will not be able to give them to everyone—to be able to understand the KFS. If we cannot do that, then the system will not work.

Senator HOGG—Unfortunately, the people you are going to miss are the people who need it the most. Therein lies the real problem. The people who are academically inclined, business minded, upwardly mobile, are going to have no problem. The problem is at that difficult end, which I have just alluded to. I would like you to address this as well: it may well be that there is a need for a two-stage educational program—a general awareness program, and then one being more specific in dealing with, say, the KFSs.

Is that a reason, therefore, maybe, given the enormity of the task—one must take that into consideration—that instead of stretching it out one year you should stretch it out two years for the implementation, and make it a common implementation date in the year 2000, rather than a common implementation date maybe next year?

Mr Wyatt—I do not think we can comment on how long it is going to take to educate the population. We can say that it is going to be a very difficult task.

The other issue is this. I have a feeling that larger corporations with those sorts of employees will be more adequately treated, if you like, than the smaller businesses with one or two employees, where choice is just a paper nightmare. Probably the people within that

organisation do not understand it, and they are relying very much on their advisers. So I think it splits again to large organisations that may be running in-house seminars, as compared with smaller organisations that just have not got the resources to carry out that education.

Senator HOGG—But there really is a preponderance of small businesses out there in the marketplace—

Mr Wyatt—Absolutely, yes.

Senator HOGG—as opposed to larger corporations. So the problem is really magnified, isn't it?

Mr Wyatt—To get back to your initial question: we see that the accounting profession has a responsibility, and is a resource, to provide that sort of information on somewhat of an arms-length basis to small business and the other forms of entities. The ASCPA will be undertaking its own strenuous internal professional education, product-neutral education programs to the professions. So that will happen.

It then comes back to that product-neutral education being developed further out there into the marketplace that we see as being the key issue. It will not work unless you can get the basic glossary of concepts, what people should look for in terms of arms-length concepts, out to people. Superannuation has been changed significantly, I think, in the last 15 budgets on the trot. Effectively, people's attitude, from my personal experience as a practitioner, has been that it is all getting too hard.

Everyone is in heated agreement that choice is conceptually a good idea, but it represents a significant change and a significant shift of the goalposts. People's enthusiasm to go and become involved and get a deep and meaningful understanding is tempered a bit by all the change that has gone on. We had the surcharge last year, for example, which is complex in its own right.

Choice is a positive thing, but it is complex and the more you go into it the more the issues keep raising themselves and making it more and more complex. It is one of these concepts that I think are at the surface very simple but, when you get into it, it is very, very complex and confusing.

Senator HOGG—Is this going to see an added cost on small business and, if so, to what extent?

Mr Pragnell—In terms of providing advice to employees, I do know of one instance where there is a medium sized clothes manufacturer in South Australia that provides choice under its certified agreement, where employees are given the choice between the in-house corporate fund and the industry fund. When I was speaking to the human resource person there, she said, 'Yes, we can do it but it is costly, and it is time consuming. It means that we have to take our production staff off the floor for one to two hours. We have to provide them with a seminar, we have to provide them with materials, we have to get that translated into community languages.' She says, 'Yes, it does work. Yes, we can get the message

through. But it costly for us.' The only reason they were doing it was that it was part of their broader human resource strategy.

For small businesses, yes, it will be difficult. It is like surcharge, for instance. They will have to find some sort of external resources to rely upon and that will be costly for them somewhere along the line.

Senator HOGG—Do we have any idea of the cost? I would be interested.

Mr Pragnell—We have not done any costings.

CHAIR—Excluded funds can invest a proportion in, for example, the buildings of the employer. Wouldn't there be a danger in such circumstances when, according to the legislation, in 12 months time the employee can opt out of such a fund? It could cause major embarrassment in such circumstances.

Mr Wyatt—Trustees, under section 52(2)(f) of the SIS, have a responsibility to formulate an investment strategy having regard to issues of solvencies and the retirement programs anticipated. If it is inadvertent in the form of a death benefit, traditionally excluded funds insure between the account balance and the pension RBL. I do not particularly see that as a dilemma.

If we take the Wallis view of an excluded fund where we have a trustee being a member, even if they go outside the traditional mum and dad to maybe four-, five- or six-member funds, then in your role as a trustee, given your input and your ability to make input into that, those sorts of investment decisions need to be taken in light of the impending strategy of retirement.

CHAIR—Again, it reduces your flexibility. A lot of these excluded funds, as you know, are tax driven. I point this out as a problem down the track for employers who offer an excluded fund to their employee.

Mr Wyatt—I think it may have been true to say that in the early days they were tax driven. From our experience in the accounting profession, that has certainly shifted away from being a tax driven concept to being one of providing assets. A lot of them are traditionally in touch-and-feel assets like properties, but there is also the use of a maturing of the excluded fund arena to use the equities as an investment to pick up the franking credits. The difference that the franking credits make to the overall long-term rate of returns is quite significant in reducing the actual fund's tax rates. If you model that up, it can make significant—as you would be aware, with the magic of compound—changes in the actual returns to the members.

I think that it was probably true to say that in the bad old days of the late 1970s and perhaps the early 1980s they were purely tax driven vehicles. With the implementation of SIS, they have tightened up and are now very much arms-length, bona fide retirement planning vehicles.

CHAIR—Are there any concluding comments that you would like to make, Mr Pragnell or Mr Wyatt?

Mr Wyatt—The issue as we see it is primarily the desperate need for product-neutral education. If we cannot get the product-neutral education out into the marketplace, it is our view that choice could not be the success that we would all hope it would be.

Mr Pragnell—I think that is basically the view of the Society—that choice can work, but it will require resourcing, a lot of effort and a lot of pulling together by the various parties to make it work.

CHAIR—Thank you very much.

Proceedings suspended from 12.33 p.m. to 1.39 p.m.

HEWETT, Ms Helen, Fund Secretary, C+BUS, Industry Superannuation Fund for the Construction and Building and Allied Industries, Level 12, 313 Latrobe Street, Melbourne, Victoria 3000

CHAIR—Welcome. We have before us submission No. 34. I invite you to give us a little bit of background, the position from which you come to speak to your submission and, following that, the committee members will ask you questions.

Ms Hewett—Thank you for the opportunity to come before you. We are pleased to have this opportunity to make a couple of points that we have attempted to make in our submission. I think that we see this, as do a lot of others, as a huge change in superannuation for lots of members and employers who, in the past, really have not had to bother too much with understanding the detail of how it works and to make value judgments about performance and so forth. So we see it as a big change, and we are concerned that that change have sufficient time to be implemented in a correct way.

The government is introducing this choice of fund legislation, I understand, so that there is greater competition to bring about better retirement benefits for members of funds, for individual members and to also, presumably, decrease the burden on the government and the taxpayer ultimately for looking after people in their retirement, people who are able to save for themselves during their working lives. C+BUS actually supports this objective, and in fact when the fund was first established back in the early 1980s we believed that the creation of this fund in the building and construction industry helped to bring about some greater competition in the way of better products for superannuation fund members.

I think that the government has a responsibility to ensure that the benefit from increased competition will improve the financial situation for individuals and their families. They have to ensure that instead the reverse does not happen and that these people do not suffer financial loss and loss of security.

We see that, in order to do this, there are a couple of key areas that need to be addressed. One of those is to ensure that there is informed choice for members of superannuation funds, and we believe that in order to do that there would need to be a community awareness program directed at both employers and employees to explain to them how superannuation funds operate, what their choices are, and how they make comparisons between different products that will be promoted heavily.

We think that, if there is such a community awareness program that is supported by the industry, we have to ensure that that program is not seen to be and is not promoting the government or promoting any products. It has got to be a true awareness and education program where we equip the community to be able to make judgments that are going to affect their financial future.

For this to be effective we also think that it has to be underpinned by adequate and proper disclosure requirements, better than those that currently exist. We are required, as a public offer fund, to produce what is known as a key feature statement, which is some six pages long in fairly small typed text. We are required to use prescribed wording in this

document, and some of that prescribed wording does nothing to explain to people how superannuation works. I will just give you an example. It refers to ongoing management charges in previous years. To me there seems to be a contradiction in that prescribed heading. It says:

> The ongoing management charges charged by a fund over a year can be expressed as a percentage of the fund's assets. This figure allows you to compare the management charges of this product with other products.

There are two issues I want to raise in highlighting this. We find that we are constantly being asked by members, 'What does that mean,' because they are not charged a management fee in our fund at all. There are management costs that are incurred but they are not charged to the members; they are charges that are built in to the administration fee that we charge to members. So it creates a lot of confusion because, on the one hand, the document talks about fees that are charged to members and then it is talking about what are really costs and describing them as charges. So we think that there needs to be a lot more work done on the disclosure requirements for superannuation funds, and that all of the disclosure requirements have to be uniform so that there is the same information available on each product, that it is expressed in a simple way, and so that all costs are easily identified.

Recently we had a training session where there were 17 representatives from different superannuation funds and people across the industry. They were given a document that is put out in the marketplace by a very well-known provider of superannuation, and they were asked to calculate the fees. There were 14 different answers that came about. When you looked under the heading 'Fees and charges' there were hardly any there, but when you read through the document, under all the other headings, like 'Management of assets' and so forth, you found a whole range of other fees that were in there. Some of them were expressed in flat dollar amounts and others were expressed in terms of a percentage.

We found, when we did some market research with members, that it was very difficult for them to have any understanding of the impact of a 0.5 per cent annual fee. It does not sound like much but, as you build your assets in a superannuation fund, it becomes a significant fee over a period of time. So we think that that is a real challenge for the industry as a whole and also for, I think, the successful implementation of this choice of fund legislation.

Going to the other areas that we have addressed, the other key area we see in our industry is that we have got almost 300,000 members and almost 19,000 employers that participate in our fund, which is a fund for the building and construction industries. It is seen as a fairly high risk industry and, before C+BUS came into existence in 1984, most employees in these industries were not able to buy insurance. If they could buy it, if they could afford it, they usually found that pre-existing injuries—such as a knee injury, a neck injury or a back injury—were excluded. So effectively they had very little in the way of security. There are many employers in our industry who will tell you, and so will their union officials, about the days when the hat would go around to take up a collection for the family when someone had been killed on a building site.

I think that for both employers and members in our industry insurance has been a very important part of the superannuation benefit. We think that it is important to look after

members throughout their working life by providing them with the security that insurance gives, and to also look after them in their retirement and make sure that their families are adequately provided for.

Superannuation funds like C+BUS, which is an industry fund, have group life cover. That means that because we have got 300,000 members we are able to manage the risk by, instead of having to look at the risk of one individual, looking at them as a group. That way we can offer a product to our members where anyone—any member, every member—is entitled to insurance. It does not matter whether you have a pre-existing illness or injury. We have members who come into the fund on day one and who have got terminal cancer with six months to live. But, if they are on the job the day they join the fund and they are actually working, they are entitled to insurance. And they are entitled to receive what we consider to be fairly low cost insurance.

One of the concerns that we have is this whole question of insurance. Under the legislation as it is proposed, people will have 28 days to make a choice. Then there will be some time that will have to be given to the employer to make calculations, look after the paperwork and send it in to the superannuation fund before that person is covered for insurance.

One of the questions that we are concerned about is who is going to accept the liability for insurance cover for the member between day one when they start work and such time as the fund is able to record and accept them as a member. Currently what happens in our fund is that, provided you sign the form and your employer pays the money on the due date—which might be six weeks away—your insurance is effective on day one. We think that that has been very important.

There have been lots of injuries and cases—and there was one very well-known case in Melbourne a few years ago—where there was somebody killed and a number of building workers injured. That was day one of the project and those people were new employees. They were covered by insurance, but we are concerned that we will not have the ability to do that because effectively people will be able to select against us. Our insurer has said that it would be very difficult for them to maintain the current policy conditions under a choice of fund environment and that they would not be able to cover people until the premium was received.

We think that this issue for us is of great concern to both the unions and the employer sponsors to our fund, and we think that it will be a problem for many other industries besides the building and construction industry.

The other matter I want to raise is the question of timing, and I am sure this has been raised before by others. We cannot see how it will be possible, given all the good will in the world by all parties involved in this process, to have an effective program in place by 1 July this year.

For public offer funds such as C+BUS, we have a number of prescribed documents, one that I have mentioned to you, the key feature statement, and there are many others that would have to be changed, so there would have to be considerable changes made. Not only

do we have to analyse the legislation and write the changes, but also we would need to get legal advice and we would need to ensure that we complied with SIS and that all of our other obligations as a trustee were met. With all the good will in the world, we could not do that and get them printed and have them distributed by 1 July, even if we knew now exactly what the outcome was going to be.

We make the point in our submission that a little over two million people change jobs each year. On top of that there are new entrants to the work force. We see this, even if it only applies to new employees from 1 July, as a huge task for people to try and address, and we do not think it is possible. We also believe that by having two dates it just makes it that much more difficult.

We have consulted a number of large employers in our industry, some of whom have people working in remote sites, on oil rigs offshore, at mine sites and so forth, and they say that it is much easier if they are going to have to make a change to make it on day one, to make sure they withdraw all their old documentation and put out new documentation. We see that as an issue for us as well. We think that is another thing that needs to be considered.

Finally, there is the question of cost. I have some figures here that were produced by Shannon's Way who are marketing and media consultants. They tell me that in 1997 the finance sector spent $390 million on advertising. Of that, $216 million was on television and a great deal of that went into advertising superannuation products. One big life office spends $1.5 million a month promoting superannuation to the community.

We know, through publications we put out now, that in our industry we are more and more being asked to produce publications in other languages. We know that there are low levels of literacy across the community, and in some sectors that is greater than others.

We think that for us to be able to effectively promote our product and look after our existing members we will have to spend more money on promoting our superannuation fund. We do not think that that is going to benefit the members of the fund. For us to spend $12 million on advertising—which we would not do, but if we were to—we would have to take approximately one per cent off the crediting rate. If the objective of all of this is to increase competition so that people have greater security and more money to rely on in retirement, I am not sure that this objective is going to be met unless there is some way of managing these costs.

I also think that we have to take into account, when we look at the spend on advertising and promotion, that there are a lot of players who see superannuation as a business to make money. They have shareholders' interests to look after; they pay heavy commissions to agents. People will take a lot of those products because they will be sold them through television and other media but they will find it very difficult to get out of those products because there will be huge financial penalties. We see this a lot now with people who have had products that go back years and years, where they have put in huge sums of money and there are big penalties to get out. We think that there has to be some sort of very heavy monitoring of disclosure to make sure that people meet the disclosure requirements. Those disclosure requirements need to be uniform and they need to be fair.

That is really a quick run through some of the issues that we have attempted to raise in our submission for your consideration.

CHAIR—Given C+BUS's pre-eminent position in the construction industry, would you not be more likely to try to seek some sort of agreement with C+BUS nominated in that agreement? That would protect your members from perhaps a lower contribution rate that might apply to other funds.

Ms Hewett—Do you mean through enterprise bargaining agreements?

CHAIR—Yes.

Ms Hewett—There are a number of members, in some states more than others. In Victoria we have 18,000 members out of our 35,000 active members who are covered by enterprise agreements but that number is much lower in other states. We are not party to those agreements. They are agreements that are made between the employer and the union representing the people at the work site. We do see that as an important way of simplifying the choice for people but it is not going to cover our entire industry and nor should it probably.

CHAIR—How do you think we should cover the question of exit costs for some people, particularly for those who have master trusts or are in a personal super?

Ms Hewett—I think one of the problems about exit costs is that sometimes the money has already been spent to pay the up-front commission and the commission that is paid over the first couple of years of the product. But I think that if there is going to be true choice available then people have to be able to get out of products without suffering huge financial loss. I think that exit penalties have to be disclosed very carefully and there should be some limit on them. I cannot see why it is necessary to charge a huge exit penalty if you are going to be up front and tell the truth about your costs. If you want to pay commissions you have to disclose them as part of your costs.

CHAIR—My final question is about bundled financial products. Technically, it has got to be a regulated fund, hasn't it?

Ms Hewett—Yes.

CHAIR—So, in a sense, some bundled financial products could be all right, so long as they contained super, because they can offer additional benefits?

Ms Hewett—When we are referring to bundled products, we know that some employers have said to us that they are being offered a package of products that include superannuation. It might include some sort of banking arrangement for them—

CHAIR—I see. The benefits are not to the employees, when you are talking about bundles?

Ms Hewett—No. Benefits to the employer—saving on public liability insurance, that sort of thing. Whilst it may be that the superannuation that is in that package is a good product that should be offered to their employees, in a climate where there are a lot of people unemployed and where there are few jobs around, there will be a lot of employers who will not go to the wall on superannuation. They will let the job go rather than make an issue about getting value for money superannuation.

Senator HOGG—It was mentioned to us yesterday by Mr Cook appearing before us—I think it was Mr Cook—that his experience was that about five to eight per cent of people on a site would understand what superannuation is about and that has been something that has grown slowly over the period of time that it has been in existence. What is your experience of the understanding of superannuation at the workplace level?

Ms Hewett—There are big construction sites where I would say there is a much higher level of understanding because we have meetings with coordinators who go out and service those members of the fund and who regularly report to them. We also put out a lot of publications and it is very easy to distribute some of those publications on things like our member investment choice. We have a magazine and so forth. Whilst we send them out to all of our members, it is very easy to go out to a work site, where there are a lot of people in a lunchroom, to have a meeting with them. Employers encourage it and they often will give time off for their employees to participate in that. Sometimes the employers themselves will attend the meeting and find it useful. We also do that with employers.

But it is very difficult in, for example, the housing industry where a lot of people are paid cash in hand. People are flat out getting wages, let alone getting superannuation. It is very difficult and there are a lot of people in those areas who know nothing about superannuation. There are a lot of people who are party to an EBA who know little about their superannuation as well. The mere fact that they are on a large construction site and there is an enterprise agreement there that nominates a particular fund does not necessarily mean that that member is going to understand everything about their super fund. What they do understand is that they have been getting good returns and that the charges have been low and that they are getting regular information. The question of whether or not they actually read and understand all of that information is something different.

Senator HOGG—The thing I keep hearing in this inquiry is that important to choice is the fact that the member of the fund must be able to make an informed choice. They must be able to obviously understand and know the product that they are selecting. But it seems to me the more it goes on that a very limited range of people will actually be able to make an informed choice, no matter what education process you go down. I said to one of the witnesses this morning that there will be people designated, whether it be the leading hand or the shop's delegate or whomever it might be, as the holder of all the wisdom when it comes to superannuation and the friends will come up and tap them on the shoulder and say, 'What should we do in terms of choice?' That does not seem to me to be fitting in with the thrust of this legislation.

Ms Hewett—I think that the complexity of the whole thing makes it very difficult to try to give people information in a way that they can easily understand it. There are a few fundamental things that people can understand. We have done market research over a

number of years and members say they can easily understand the earning rate. They need to know what the fees are but, because they are not easy to identify in the documentation, that is not simple for them. It should be. There should be a section in the document that says, 'These are the fees and charges; there are no other fees and charges anywhere other than those contained in this section.' People also need to know who manages their fund and what they can do if they have a complaint. There really are not that many things that they absolutely have to know. They have to know it complies.

Senator HOGG—Do they need to know if there is some sort of business link between the manager of the fund and the employer? Is that relevant in some cases?

Ms Hewett—In some ways you can satisfy that by a general statement for a lot of those issues. There will always be people who want to go into more detail, and they should be able to. Generally speaking, if there was some simple method of people looking at a few essential criteria for evaluating one fund against the other, that would be a big help.

Senator HOGG—Wouldn't one need to do some market testing of that to ensure that one had it right before rushing headlong down the process of choice?

Ms Hewett—Yes, one would.

Senator HOGG—How long do you believe that would take?

Ms Hewett—You would have to do the market research on a national level and at least include some eastern states as well as other states. My experience is that it takes some months to do that and to analyse and then use those results to develop an information package and a program to educate people. That takes some considerable time. It probably takes 12 months to do that effectively.

Senator HOGG—Thank you.

Senator ALLISON—We have heard so far in this hearing that the aim of this legislation is to introduce choice and competition, and that that will make the industry efficient. If you were forced to be more competitive, what steps would you take to see that that happened? In what way could you make yourself more efficient?

Ms Hewett—We do not want to be forced to offer products for the sake of offering products because we cannot afford not to be seen to be offering them. We have always taken the view that we would only offer products to members that members need and want. For example, we see insurance as being very important, but we do not want to see people eat up all their retirement savings by buying insurance that they do not need or that they have somewhere else.

We would not want to be forced to offer those products. We can always do just that bit more to get greater efficiencies. One of the things that has meant that we have been able to be very cost-efficient is our numbers. There is the fact that we focus on a number of industries—construction, building and allied industries. We have good connectivity with the

workplace, employers, employer sponsors, members and their unions. I think that has been a very important thing for us.

With the sheer size of the fund, the number of employers involved that are participants and the number of members, we think that we can produce cost-effective benefits. We can have cost-effective administration. I can see easily how we could be less competitive. We could be less competitive by spending a lot of money on promoting just for the sake of retaining our existing membership.

Senator ALLISON—But are you not convinced that there are many things you can do to cut down your costs or to become more efficient?

Ms Hewett—I do not think there are any significant areas we can improve. One of the things that we have focused very heavily on is our investment management cost. We have $1.8 billion and our investment management costs are 3.8 per cent. That is very low by industry standards. The way we have been able to do that is to negotiate very heavily with managers. We have reduced the number of managers while still retaining a good level of diversification. We have been able to reduce those costs significantly.

Senator ALLISON—Can you talk about the investment choices you offer your members? I gather from the document you showed us earlier that there are some. What are they and how interested are your members in this question of investment choice?

Ms Hewett—We offer three pretty traditional portfolios: the stable fund, the growth fund and the balanced fund. There are some differences. Our growth fund tends to have a slightly higher proportion of growth assets such as property than a lot of other comparable funds. We believe it is slightly different. Essentially, they are very similar to those offered.

We sent out a publication to 250,000 members. We invited them all to participate in member investment choice. Just a little over 2,000 made some sort of inquiry and, as at the end of January, 310 made a choice.

Senator ALLISON—So it is not something your industry is clamouring for.

Ms Hewett—No, it is not at all.

Senator ALLISON—Have you thought of investment choice which is a bit more explicit in terms of where the money goes? For instance, would you ever consider indicating on that investment choice that the money was going into the building industry? Would your members be interested in seeing investment in the industry? I can imagine there would be all kinds of arrangements where you could offer them an involvement, such as the building industry in Australia or in this particular state or region. To what degree do you explain that they are options for you, or do you not?

Ms Hewett—We do invest a lot back into the industry. We have about $400 million invested in property.

Senator ALLISON—And are your members aware of that? Do they know that that is what that means?

Ms Hewett—Yes. We promote it very heavily to members and to employers because we think it gives them some sense of understanding about how their fund is being managed and that we are trying to look after their interests. After all, superannuation savings come as a result of employment, and in the building and construction industries there are fairly big periods of unemployment for a lot of workers. It is a question that you always get asked whenever you go to a site meeting or talk to a group of members.

It is difficult for us to start to break down the choices too much. What we are trying to deliver essentially is wholesale prices in a retail way. Our management costs for investment are the equivalent and even better than a lot of wholesale funds. If we then start to offer a menu of choices that is extensive, it will increase our costs.

Another thing, for example, is that in the last month, because of switches in investment choice, we had to make an allocation to a manager of $269. That is ridiculous because the costs of doing that are extraordinary in overheads involved. We do have to be very mindful of that. The other thing we have to be mindful about is members in smaller states. We are asked often by members in Tasmania why we do not invest more money in Tasmania. We are trying really hard. The thing about it is that—

Senator CONROY—Housing starts are going backwards.

Senator HOGG—I hope they made a record of the mirth!

Ms Hewett—The question about that is that, as employment goes down in the building industry in a small state and you have got a lot of your superannuation retirement money invested in that state, you get a double whammy effect. You are hurt at both ends of the scale. So we have to try and explain that to people.

The thing that we have done is that we have set up a little task force where we are looking at trying to find investments that meet all of our investment objectives that are in states like South Australia and Tasmania, and areas where members are saying, 'We don't see any investment coming into these states from big financial institutions.'

Senator ALLISON—What sort of money do you anticipate spending on advertising?

Ms Hewett—This year's is our biggest allocation ever to what we call marketing and member education. We are proposing in this financial year to spend $1.25 million. Normally we spend $500,000. The reason why we have budgeted for a much higher spend is the proposed introduction of fund choice legislation. Next year we are estimating that that will increase further, to go beyond $2 million. That will be not what you would call an advertising campaign of any large scale at all.

Senator ALLISON—Will that simply be printed materials?

Ms Hewett—It will be printed materials. It could include some electronic media, but it would be very small. You just have to make a comparison with another provider who is spending $1½ million a month.

Senator CONROY—At what level do you think that increase in marketing budget will lead to an increase in your fee? I spoke recently to one industry fund that are saying to me that they think their fee could almost go up 50 per cent to try and cope with the choice of fund.

Ms Hewett—For us to spend $2 million, we would have to put the fees up by 25 per cent. And we are a large fund, with a high asset base.

Senator ALLISON—Do you, through your printed material, intend to comment in any way about the other choices which are available?

Ms Hewett—The other choices that would be available under fund choice?

Senator ALLISON—Yes.

Ms Hewett—Yes, we probably would. We have already been commenting on it to employers. We have had a lot of employers—

Senator ALLISON—But you do not know what they will be? I mean specifically the ones which might be put up. If you are one of the four, would you see yourself, at the point at which members would make a decision, offering them a critique, if you like, of the other three schemes?

Ms Hewett—Only if a member asked us to do that. We are asked at times to help someone evaluate a product against another.

Senator ALLISON—So why would you not do that in an advertising leaflet?

Ms Hewett—Because there are 19,000 employers, who presumably will not be offering the same menu of choice. But already we are asked to do that sometimes, where there might be a building company that has got their own corporate fund and the agreement is that they can have a choice between the corporate fund and C+BUS. But usually that is done in such a way that there is an agreement about what are the essential criteria for evaluating the two funds. We would jointly then put out something to all the employees so it was seen as fair and accurate.

Senator CHRIS EVANS—Let me take you back to your evidence that you would have only 310 members take up internal investment choice, out of 250,000. Do you think that experience is indicative of industry funds or funds generally, or would yours be an unusual experience? Something is driving the push for choice. It seems it is not your members.

Ms Hewett—There are two other large industry funds that we have spoken with, and ours is a slightly higher take-up rate. We know that there is one fund that has been offering choice for almost a year and they have only got 800 people who have made a choice.

Senator CHRIS EVANS—I am just trying to get a feel for it. Is that perhaps because those industry funds have lots of members with small balances. Do you think there were those sorts of factors at play here?

Ms Hewett—They would probably have a similar situation. Out of our 300,000, 50,000 were not eligible because they did not have more than $1,000 in their account. It would probably be very similar. I think you will find the take-up rate has been very small.

Senator CHRIS EVANS—In terms of this comparison between funds, it seems to me that one of the problems is that there is not a standardised fee structure, in that people have different ways of charging percentages, commissions, flat fees, for a range of different things. Do you think there is any value in a proposition that we try and standardise the fee structures themselves? Rather than trying to compare apples with oranges across different schemes, should we try and get some sort of standardisation in the basis on which superannuation schemes can charge fees?

Ms Hewett—I know that there is a group operating in the industry who have been trying to do that.

Senator CHRIS EVANS—They are trying to get a comparison between various funds, and a way of making a comparison worth while. I am suggesting to you that there might be some merit in actually mandating the way superannuation funds charge fees, so that they are directly comparable. One of the issues, it seems to us in getting to terms with all of this, is that—as you said about your experience earlier, and from some of the other evidence we have had—people just cannot make proper comparisons between different funds because they do not charge on the same basis. I got a violent reaction from an earlier witness, but I just wondered whether there was any value in looking at trying to standardise the basis on which people charge fees.

Ms Hewett—I think that you can do that in part. I do not think you can do it totally. I will tell you why. There are some charges that are indirect investment costs, and really, if you are going to tell the true story, you have got to add those back. Some types of investments are unitised and they are offset, so the member never gets to see what they are. We would argue that it is in the interests of the fund to add them back, because if you do not you are understating your performance and you are understating your fees. I think that you could go a long way towards doing that, but I think that the other thing we have to do to is have some overall measure, like the management expense ratio. But it has to be a prescribed measure so that you cannot leave things out.

Senator CHRIS EVANS—What do you say about the proposition in the legislation which provides for choice for future contributions only? Won't that lead to a proliferation of funds? If you choose to get out of the fund you are in, your future contributions will go into your new fund and your old contributions will remain in the previous fund. Do you think that is the best way to go, or would you advocate that, at the time of choice coming in, people should be allowed to leave their funds and take with them their previous contributions?

Ms Hewett—They need to be able to, but I do not think that they will be able to unless they can avoid the heavy exit penalties. Otherwise they will be forced to leave it there.

Senator CHRIS EVANS—As I understand it, that is not proposed in the legislation at this stage to deal with the past contributions at all. I just want to get a view from you about whether it is desirable that they ought to be able to take past contributions at the same time.

Ms Hewett—It is highly desirable. You can look back a few years ago when we were talking about protecting accounts and members paying double administration fees. There would be a bad effect even if they were in two funds that were relatively low cost, but they will not be in two funds that are low cost funds because it would make sense then to move your accumulated balance to wherever your contribution flow was going. It is likely that someone will be trapped in a fairly high cost fund that they cannot get out of because of the exit penalties, and that they will be paying their future contributions into another fund, so they will be paying double fees. The fund will have to protect them. If they have got small accounts in both, both funds will have to protect them. So it could lead to a cost to the member and a cost to the industry.

Senator CHRIS EVANS—To go back to the question of bundling: what do you say about the suggestion that there needs to be disclosure of the relationship of the employer to the company offering the superannuation product? We have been told that employers are going to get offered, by various banks or financial institutions, a package of services, and in fact the choice of super funds may all come from the one provider. What do you think should be the rules governing the situation where that employer has a business relationship with the provider other than through the provision of superannuation?

Ms Hewett—The employer should have to disclose any relationship and make it clear that there is no conflict of interest and that they are not receiving any benefit. If there is a benefit, it has to be disclosed.

Senator CHRIS EVANS—Yes.

Ms Hewett—That will be difficult to do, because—

Senator CHRIS EVANS—The benefit could be intangible, could it not?

Ms Hewett—It might be, say, 'We know you like the cricket, and we'll have a few tickets in the front row.' Who knows? But the other thing is that some employees will be scared that it might mean their job: a lot of employees want their employer to be as efficient as possible because, if he is efficient and makes a profit, they will keep their job. So there will be some genuine interest on the part of the employee, but we must try to have some disclosure requirements, just as superannuation fund trustees and company directors do.

Senator CHRIS EVANS—Is that enough, though? Do you think it would be worth—and I am only thinking aloud—going the extra step and saying that, if a bundle of products is offered by an employer, there should be no other commercial relationship between the employer and the provider of the products?

Ms Hewett—That would be ideal. But that might mean that an organisation which has a good superannuation product and, say, a good banking product, is precluded from offering both of those products, products which would be in the interests of everybody. It would be hard to do it in a fair way, but we do have to somehow or other address that issue and find a way of disclosing it; otherwise it is employer choice and the employer is getting the benefit, and I do not think anybody intends that to happen.

Senator HOGG—I have one further question. In respect of your industry, there are a lot of people, I would imagine, who have jobs with different employers at one and the same time. How would the issue of choice impact upon those people, where the same choices might not be available at the different employers with whom they work?

Ms Hewett—It will lead to an increase in the number of small accounts. It will lead to heavier costs, because there will be more protection costs involved. The individual member will be paying double or triple fees in lots of cases. It will be a huge cost burden on the industry and on the individual member, ultimately.

CHAIR—As there are no further questions, we thank you very much, Helen, for your very informative evidence. Are there any publications you would like to leave with the committee?

Ms Hewett—Yes, I would be happy to do that.

CHAIR—We would be particularly interested in the key features statement.

Ms Hewett—Yes, I have that here.

Senator HOGG—Chair, there was a survey mentioned earlier: if that is available, that would be helpful.

CHAIR—Do you have the details of the survey, or would you like to give it to us?

Ms Hewett—I would be happy to give you information from that survey. We have a summary of the outcomes, which we could make available to you.

Senator HOGG—Also, do you have something on where the various employers went through to identify the fees and charges?

Ms Hewett—Yes. They were not all employers: they were a range of people in the industry.

Senator HOGG—Have you got an analysis of that, or is that anecdotal?

Ms Hewett—We have the document. I am happy to give you what we have. I will have a look and see what we have got.

Senator HOGG—That would be interesting, as well.

Ms Hewett—Yes, it was interesting.

CHAIR—Thank you very much.

[2.30 p.m.]

HOLDSWORTH, Ms Rhonda, 27 Beaconsfield Parade, Northcote, Victoria 3070

HOPGOOD, Ms Susan Louise, Acting Federal Secretary, Australian Education Union, 120 Clarendon Street, South Melbourne, Victoria 3205

NEWCOMBE, Ms Jennifer Mary, Federal TAFE Officer, Australian Education Union, 120 Clarendon Street, South Melbourne, Victoria 3205

CHAIR—Welcome. Do you have any comment on the capacity in which you appear before the committee, before you make your opening statements?

Ms Newcombe—Yes, Senator. Rhonda Holdsworth is here in her capacity as a former parent volunteer on a management committee of a kindergarten in Victoria. In that capacity she had responsibility as an employer of education workers in the early childhood sector.

We wish to make a few additional points to our submission to the committee. In particular, our points relate to the need for education of both employees and employers about the implications of this legislation. We particularly want to talk about the needs of certain workers in our industry, particularly those that are precariously employed. The term 'precarious employment' refers to those members of the industry that are not in permanent employment, either fixed term contract employment or employment on an hourly-paid basis.

To add to some of the points that we made in our submission to you, we firstly want to go a little to the history of women as education workers in the education industry. It is a fact that women make up a large percentage of those education workers who are not permanently employed. There is some historical discrimination against women with regard to superannuation entitlements, and so we would like to draw your attention to some of that background.

Secondly, we would like to make reference to the trend towards non-permanent employment in the education industry, and to the particular needs of employers that are management committees consisting of parent volunteers. This is something which is an employment mode, in both the early childhood sector and the adult community eduction sector. We would also like to make just one point about something that is not directly related, about the intended closure of the Commonwealth Public Sector Superannuation scheme.

Ms Hopgood—Mr Chairman, I would like to raise a few issues about past discrimination of women educators, women teachers in particular, in our industry. I am actually speaking from a submission made to this committee in 1995. It was a submission made to the committee concerning superannuation, intermittent work patterns and women. At the time, we indicated that this issue was a concern for us around the country.

CHAIR—We picked up some of your ideas, too, and acknowledged them.

Ms Hopgood—You did and you acknowledged them, and we were very pleased that you did so. All I want to do from that particular submission is raise the history of discrimination which has occurred against women in the education industry. It has been well documented

but it is true that, in the past, women have been directly and indirectly discriminated against in the education sector, through practices such as women teachers being forced to resign on marriage; married women being ineligible to belong to state superannuation schemes; a lack of leave entitlements, such as maternity and family leave; no access to superannuation schemes for temporary teachers; and no permanent part-time employment.

All of those practices have now in fact been removed, because they were mostly direct discrimination practices. But they have left us with a situation where many women, as a result, are approaching retirement age—particularly now, as we have got an ageing work force in teaching—after having a career of teaching combined with family responsibilities, without access to adequate superannuation.

We believe that in talking about any issue in relation to superannuation, it is important that we take into account the broken service in work history. This was brought about as a result of the discriminatory practices which have led to inadequate superannuation coverage for many women in our industry.

As a result of that, it is important also that we look at issues in the past such as women not being informed of their rights and entitlements in terms of superannuation. Although many of these have actually been altered since, and we have improved conditions now, it is important that we acknowledge the past discrimination that has occurred.

Ms Newcombe—I am going to talk a little bit more about the profile of precarious employment, if I may use that term, in the education industry, and concentrate particularly on the early childhood sector and post-compulsory education.

CHAIR—Can you try to relate it to the questions of choice—how choice could make things much more difficult for them?

Ms Newcombe—Sure. Our point is more related to the particular educational needs of both employers and employees employed in that way. There are approximately 28,000 TAFE teachers in Australia and another 3,000 to 5,000 working in the adult migrant services and the adult community education sector. Nationally, in TAFE, at least 50 per cent of those teachers are employed on a non-permanent basis, which is to say they are employed either on a fixed term contract or are hourly paid.

Underemployment, which was referred to by the last witness, of those people is quite common. What I mean by that is that one person or one teacher may have to seek two or three hours work with one employer, perhaps in the adult migrant sector, and on another day they may be working in the adult community sector. People often have to seek hourly paid employment with a number of employers in order to get a living wage. Our concern is that those people have particular educational needs in terms of their benefits but they may also have multiple arrangements in place because of the choices which are offered with each particular employer.

It is also quite common in the TAFE sector that those people who are employed, particularly on an hourly paid basis, are not given information about their entitlements by their employer and not a lot of attention is paid to informing those people about what their

entitlements are. Our concern is that those employees find it confusing enough already in terms of superannuation benefits. Having multiple arrangements, if this legislation is introduced, will add to the confusion.

I will just go to the profile of the early childhood sector in Victoria as an example where precarious employment is increasing. In 1994, 61 per cent of kindergarten staff were working part time. That figure has now increased. In 1996, 68 per cent of kindergarten staff were working part time, although not through their own choice. This is another question of underemployment.

The preschools and kindergartens in Victoria are operated through a range of providers but the most common model is that the employer is a parent based committee of management. In Victoria there are estimated to be 1,200 preschools and kindergartens where the employment arrangement is that the employer is a parent volunteer committee of management. Until 1994, teachers' salaries were paid through a central payroll system. However, in 1994 the central payroll system was abolished and the management committees of parent volunteers became responsible for the payment of salaries and operating costs.

To add to that administrative burden, committees of management tend to change every year. That is to say, a child is only four and attending preschool for one year, so there is a different group of parents who are the employers each time. That makes it very difficult for them to develop administrative experiences and the knowledge of past practices.

In other early childhood centres in Victoria there has never been a central payroll system. The question of multi-employers is again relevant because it is quite common for a teacher in the early childhood sector to work at a number of centres and therefore have multiple superannuation arrangements.

Ms Holdsworth—I have been a parent on committees of management for kindergartens and early childhood centres and on a preschool coalition group in the city of Darebin for the past 10 years. I was co-opted to a kindergarten committee in 1994 and then told that we suddenly were the employers of the staff and we were going to manage their wages, their uniform allowance, Workcover, superannuation—the lot. None of us had any prior knowledge of those matters and none of us were from that background.

Most parents who go on parent management committees do so because they have an interest in maintaining the centre that their child attends and they do not want that sort of responsibility. They are very worried, in this day and age, about litigation and not doing the right thing by their employees and where that responsibility starts and finishes.

I cannot understand my own superannuation where I work, let alone try to sort that out for someone in another industry. As a parent volunteer you are on the committee for 12 months, especially in kindergartens, when your child is there. With a three-year-old kinder it at least gave you a two-year term because you had a child in three-year-old kinder and then in four-year-old kinder, but as a volunteer parent you do not have time to spend educating committee members.

You could offer an education program but it is hard enough to get people to come along to a meeting once a month let alone train them in human resources skills, which they just do not have. Most people are happy to come along and bake cakes, help out, do reading and all those other things that are required but, if you explain that they are going to be the employers for these employees, people back off.

Employees might work at three or four different centres and they might have different awards. It was hard enough in 1994 convincing parent committees that they needed to follow an award for the staff in kindergartens. That was a very steep learning curve for all of us. I did not know how Workcover was paid, but I learnt very fast. In fact, we got fined because we had not paid it for the first half of the year. That is the sort of thing you are facing with the superannuation changes if you offer choices in lots of different funds. It is very difficult to actually have any knowledge of it unless you are working in the area all the time.

Ms Newcombe—I would like to make one point about the intended closure of the Commonwealth's Public Sector Superannuation scheme, and again it relates to teachers who are employed on an hourly-paid basis. If the Commonwealth's Public Sector Superannuation scheme is closed to new employees, there is a difficulty with the engagement of hourly-paid teachers because every time they are re-engaged or return after breaks in service, they are considered to be new employees. Currently, hourly-paid teachers at the Canberra Institute of Technology, for example, are eligible to be members of that defined benefits scheme but there is doubt, when the scheme is closed, if someone has a break in service as to whether they will then have to exit that fund and be considered a new employee.

Ms Hopgood—In conclusion, what we are wishing to put in front of you today is that it is important to take into account the needs of particular groups of employees. The point we are making is that precariously employed employees are often working at a number of jobs a week and with a number of employers. In our industry they are predominantly women and we think that as a group they have been discriminated against in the past. We have made the point, and you have accepted the point, that it is necessary in all superannuation legislation to address the needs of particular groups, and women in particular, and make sure when we introduce changes that we do not exacerbate what has happened in the past. We would like to emphasise the need to take into account the needs of that group and to look very carefully at education being provided for that group of employees and for their employers as well.

CHAIR—Ms Holdsworth, is there an industry fund to cover the superannuation needs of the people who are in your paid work force?

Ms Holdsworth—At the moment, for child care, I think they have the standard government one; I do not know. We had a pretty awful situation where one of the members of the committee decided to sell life insurance, instead of superannuation, to the staff in his role as an employer. That is the other issue that comes out of that—that it is open to all sorts of exploitation by committee members. There is the compulsory super scheme that the child-care people contribute to and I think the kindergarten teachers are entitled to the education employment scheme that is available, and there are private schemes.

CHAIR—Where do you turn to for advice? You are not employers in the normal sense in that you are a voluntary collective, aren't you—

Ms Holdsworth—Yes, that is right.

CHAIR—which, from time to time, employs people?

Ms Holdsworth—It is very hard to get good advice. We were members of VECCI at one stage, and some of the industry based groups that are around. We used our council, the city of Darebin, and anyone there who had experience with that and asked them to find further information. With a lot of it, you just wing it. You do your 12 months, you attend meetings, you survive the annual general meeting and you move on. It is true. You bury your head for a few meetings, you do not turn up to one—you can miss three in a year and you are not off the committee. That is what happens; that is the reality of it for the staff. Actually, a lot of the information comes from the staff because, if they are really keen, they will say to you, 'Look, we really need to do this.' And some of it comes from union groups or groups who have particular interests for their workers.

CHAIR—But your groups would be scattered all over a big metropolitan city like Melbourne, wouldn't they?

Ms Holdsworth—There is a Kindergarten Teachers Association and there is the Kindergarten Parents Association—KPA—who do try and provide information for parent management groups. In 1994, when it suddenly changed, someone said, 'Do you want to be Treasurer?' I said, 'What do you have to do—manage the cake fund?' and they said, 'Oh yeah.' Then suddenly I was employing people, and reading through documents that were not written in plain English and were quite difficult to wend your way through, let alone the sort of stuff you get in superannuation documents. When I get my statements I do not know what they mean.

You are reliant on interest groups to provide you with the information. It is quite tough. It certainly is for the teachers who work at three or four centres in one municipality. For example, you will have kindergarten teachers for three-year-olds who provide four hours of kindergarten sessions per week and might work at three different centres. They will have an interest in having industry based superannuation and general conditions.

Senator CHRIS EVANS—What sorts of industrial arrangements are they under? Are they under a state award or an EBA?

Ms Hopgood—They are under a state award.

Senator CHRIS EVANS—So they are under a state award but they might be employed by three or four different employers?

Ms Holdsworth—Yes.

Senator CHRIS EVANS—Currently, what superannuation arrangements are they offered?

Ms Holdsworth—I think they get compulsory super, and that is about all, at this stage.

Senator CHRIS EVANS—Yes, but with which scheme?

Ms Newcombe—It is my understanding that there are a number of schemes that early childhood people can belong to, perhaps even a health industry superannuation fund that could be common in the early childhood area, and local government schemes as well, because in some cases they are employed by local government.

Senator CHRIS EVANS—Yes, some of them would be local government employees.

Ms Newcombe—I think there is a plethora of arrangements at this stage.

Senator CHRIS EVANS—I presume a range of them would be earning less than $450 per month from an individual employer, so some of them would actually be excluded from superannuation by these arrangements in any event.

Ms Newcombe—That is right.

CHAIR—The government is going to mount an education program. How do you think it should be directed to people such as those you represent in order to get the message through?

Ms Holdsworth—Firstly, it has to be in plain English.

CHAIR—Should it be television or—

Ms Holdsworth—Written material, television. I guess you are assuming that people are going to actually sit there and pay attention to something on television and work their way through it. I think a lot of parents really do not want this responsibility at all in these committees of management. It is very hard to get committees of management together in many centres now for that reason and you cannot actually get a subsidy from the state government of Victoria unless you have a committee of management for kindergartens.

Certainly it should be written material and through in-servicing. The city of Darebin provides in-servicing for committees on how to be a committee member and how to run a committee meeting so that at least they are able to follow, and to lodge their minutes with the Office of Fair Trading and maintain that sort of status, too.

Written material is hard if it is not written very clearly for people. You are assuming they have good education standards and can read, and that they read English. You have parents from other ethnic backgrounds who are keen to help but cannot necessarily read English. It is a hard one. To train people adequately so that you provide your employees with good information is very tough on parents who are only there for 12 months to two years.

Ms Hopgood—On a separate issue, or an extension of that, to actually rely on these groups as employers to provide the information to their employees about their superannuation would add an additional burden and not provide a good education program for employees, so there are two sides to the educational program. To suggest that employers, particular-

ly small employers who are parent volunteers, provide that education or information would be asking too much of those groups.

CHAIR—Do TAFE or adult education cater for educating the public or running courses on superannuation?

Ms Newcombe—There are different arrangements. It will vary around the state systems and, in Victoria, from institute to institute. I can give you an anecdote. I attended an information session that a local Melbourne metropolitan institute ran for staff on superannuation. What happened was that none of the casually employed teachers came to the session because they had not heard that it was on. That is really my point about the personnel practices and the many difficulties in terms of the way those people are employed.

CHAIR—What about TAFE and adult education running courses for the general public as well?

Ms Newcombe—It is possible. I am not sure that there are.

CHAIR—Are you aware of too many courses?

Ms Newcombe—No.

CHAIR—Could you find out for us? It is a big issue and I would be surprised if TAFE or adult education have not picked this sort of thing up.

Ms Newcombe—Do you mean in terms of running night classes for people in the local community?

CHAIR—For, say, three or four nights or six nights—something like that—for adult education, on the basics of superannuation and what you need to know.

Ms Newcombe—I would imagine that the TAFEs would perhaps need to be specifically funded to run those courses. Certainly they are placed within regions and communities to be able to provide that service, but it is a service that would have to be funded.

Ms Holdsworth—But it is still a big ask for a volunteer parent to give up that amount of time to attend a course in something that is quite foreign. If you do not have an interest and the background it is quite a foreign area.

Senator CHRIS EVANS—Your point is that in your industry you want access to simple, fair, industry based super for that particular set of employees?

Ms Holdsworth—Absolutely, yes.

Senator CHRIS EVANS—And choice is not really the burning issue?

Ms Holdsworth—Well it is just too big a burden for a volunteer—and they are volunteers; they are not paid. You say to people, 'Why didn't you turn up to the meeting last

week?' and they say, 'I had other things on.' It is a conundrum: how can you have volunteer employers? Yet we do.

Senator HOGG—In the education area I presume there are bodies such as volunteer groups who run tuckshops and the like. Are they in a similar position?

Ms Newcombe—If I can use the example of Victoria again, there has been a lot of devolution of administrative responsibilities to the school council level. School councils do not employ teachers. However, they do employ after school and before school child-care workers, and often they employ additional tutors in sport, music and so on. So there already is a situation in schools where parent volunteers on school councils have to deal with issues like payment of superannuation benefits. If we were ever to move to local employment of government school teachers, clearly that situation would be exacerbated.

Senator ALLISON—I want to invite you to expand on the question of education and ask what you thought the government ought to do to make employers and employees aware and educated about choice, whether you have had a chance to look at the ISC and the ATO material that has been proposed so far and what you think of it?

Ms Hopgood—We have not had a chance to look at that material, so I cannot comment directly about that. In general, what we would say is that it is not a good idea to rely only on written material for the groups that we are particularly talking about. If you are talking about the employer group—I think Rhonda has made the point to you already—groups of employers who are in fact doing it as voluntary work, it would be very difficult to rely solely on written material. It would have to be a mix of information, a mix of courses information, perhaps training that is provided through employer organisations and so on, to enable the employees who are there on a voluntary basis to fit their own needs into whatever is available and to be able to gather that information.

In terms of the employees themselves, once again it is not a good idea to rely on the employer to provide that education or information, for reasons which we have already stated. It would be important to provide a variety of sources of material, not only written. In our industry the issue of workers who are speakers of English as a second language is not usually an issue. Literacy is not an issue for our workers, although that would be a general comment that you would make. In fact, you would have to make sure that any material was put out in a variety of languages so that the needs of particular workers from a non-English speaking background would be catered for.

In terms of taking into account the needs of part-time workers or workers who are working from a number of different places, the education program provided would have to be an education program which provided a variety of sources of information; otherwise people simply will not be able to have access to it, and we cannot be sure that they will have access to it.

CHAIR—Thank you very much for appearing before us.

Proceedings suspended from 2.57 p.m. to 3.16 p.m.

CHILD, Mr Stephen, Senior Manager, Technical Services, Commonwealth Bank of Australia, Level 1, 16-24 Ellie Street, Burwood, New South Wales 2134

CHAIR—The committee will continue taking evidence. We thank you, Mr Child, for sitting through a number of presentations here today. I am sure you have been enlightened by what has been said.

Mr Child—It is part of the education process.

CHAIR—Thank you very much. I think you know the rules. We ask you to speak to your submission and we will then ask some questions.

Mr Child—Thank you very much. The Commonwealth Bank welcomes this opportunity to present to the committee its views on the government's proposed freedom of choice legislation. I do not intend to restate in full our written submission; rather, I will concentrate on the main issues as the Commonwealth Bank sees them.

Firstly, the Commonwealth Bank fully supports the government's retirement incomes policy objectives and considers the passage of the legislation is essential if those objectives are to be achieved. We consider the main issues affecting superannuation today are the changing superannuation environment, competition and the need for efficiency, and consumer education. In Australia, we have seen a fundamental shift away from defined benefit funds where the employer bears the risk, to defined contribution funds where the employee bears the risk.

Given this shift, it is important that employees have the ability to exercise choice and to continue to exercise choice to ensure that the optimum superannuation arrangements are selected based upon the individual's particular needs and circumstances. The need for individuals to optimise their long-term retirement savings is crucial to individuals who will have to increasingly provide for their own retirement. Choice will provide a basis for increased competition and efficiency in the marketplace, and this is also important if individuals are to optimise their superannuation savings. Increased competition will place downward pressure on costs. This will, in turn, increase superannuation savings as reduced costs flow through to increased returns, which will further benefit from the compounding nature of long-term superannuation savings.

Allowing individuals to have greater control over their savings and requiring them to make a choice has another important benefit. It will require individuals to have a far greater knowledge of the need for long-term savings to provide for their retirement and the role that superannuation can play in achieving their retirement objectives. It is well recognised that education about the need for retirement savings, superannuation and choice, and the risks and benefits of differing investment strategies, is essential if individuals are to make an informed choice. It may well be the case of the chicken or the egg, but we firmly believe that, unless an environment is created where choice can be exercised, individuals will lack the motivation to understand the importance of retirement savings and how best to achieve their objectives for retirement.

As I mentioned earlier, the Commonwealth Bank supports the government's objectives and believes the legislation will assist to achieve those objectives. Nevertheless, there is one important area where we believe some further change is required, and this concerns the portability of benefits. To implement choice effectively, individuals will need to have the ability to move their existing accumulated benefits from one fund to another—that is, portability of benefits. Without portability, many individuals could be left in a situation where they are required to have multiple superannuation accounts with the consequent negative impact of fees and charges on the fragmented balances.

In its response to the financial systems inquiry, the government reaffirmed its policy that it will require, by the year 2000, that employees in accumulation funds will be able to move their benefits between funds. We consider that the necessary changes to the SIS legislation should take place as soon as practicable to ensure that freedom of choice applies to an employee's total benefit and not just future contributions.

On a final note, we would like to comment on the disclosure requirements as proposed by the ISC in their discussion paper of 17 December. The ISC are proposing that a distinction be made between the disclosure requirements for limited choice and unlimited choice, on the basis that in the limited choice situation an arrangement must exist between the employer and the trustee of the funds. Thus the proposed simplified key features statement can apply. On the other hand, in an unlimited choice situation, they are proposing that the existing SIS disclosure requirements are to be maintained.

We do not consider a variation in disclosure regimes on that basis is appropriate. In both situations, that is, limited and unlimited, the employee may choose to use the fund for personal contributions, and it will be difficult for the provider to identify which choice option was applied. It is necessary for the provider to establish if the correct disclosure had been made to ensure compliance with SIS disclosure requirements.

Similarly, the ISC have proposed retaining the current distinction between standard and non-standard employer sponsored members. The current basis for the different disclosure standards for standard and non-standard employer sponsored members is that the former had no choice as to which fund their employer would be contributing to, whereas the latter did have a choice. This basis of differentiation is no longer relevant in a choice environment.

As we see it, the most logical basis for any variation in disclosure requirements would seem to be a functional one: does a choice have to be made? Whether it is limited or unlimited is not relevant. In our view, there should be similar disclosure requirements, along the simplified lines proposed by the ISC, for all funds being offered in a choice environment.

In conclusion, we believe the effect of choice on the marketplace will be benefits to the consumer through a reduction in the cost of superannuation, increased savings and a better informed consumer. Thank you.

CHAIR—I was interested in your last comment, about a standardised presentation for all products that are going to be offered under choice. Do you think that will be difficult for your RSAs?

Mr Child—The disclosure requirements that the ISC have proposed in their discussion paper are, essentially, the RSA disclosure requirements. They are very similar. The same type of information has to be disclosed in both situations.

CHAIR—Do you think that will give a comprehensive or inclusive presentation of all costs, including, say, lowered interest rates?

Mr Child—In any disclosure document, unless there is a guaranteed rate of return on a fixed term option, for example, like a term deposit, it is very difficult for any provider of any financial product, whether it is superannuation or otherwise, to give an indication of what the return is likely to be in the future.

CHAIR—Has your bank given any consideration to the likely return on an RSA?

Mr Child—Yes. We have got an RSA in the marketplace now, with returns on that product.

Senator CONROY—What are the fees?

CHAIR—What are the returns, first of all? Also, what are the fees?

Mr Child—I have not got the precise returns at the moment, but they are consistent with those for our investment type products. I think you will be looking at three, four to five per cent—I have not got the precise details—but, of course, we have fixed rate options, fixed terms options in that product, which give higher returns. I have not got the figures in front of me at the moment.

CHAIR—So your RSAs that have an investment of $50,000 or $100,000 get a higher interest rate than those that have $5,000?

Mr Child—Yes.

CHAIR—It is standard?

Mr Child—Rates are tiered.

CHAIR—So it is not just a changed approved deposit or something.

Senator CONROY—And fees?

Mr Child—Fees at the moment are 12 monthly payments of $2.

Senator CONROY—Would you say that represents the true cost of administering and providing that product?

Mr Child—No, because it is a banking product where the cost of the product, administering and the like, is reflected in the margin that the bank gets.

Senator CONROY—Would you think that a disclosure requirement like that for the other fund products, to have to disclose all fees—exit/entry, anything at all like that—should include a description of your margins and the profits that you make from the margins, interest rate differentials, that sort of thing?

Mr Child—I guess it would depend on the type of product and who was offering it. The reason that RSAs offered by banks were not required to do that was the difficulty a bank would have, because the funds are pooled into the total balance sheet, in identifying specifically what the margin would be. In other words, banks disclose what their margin is on their total funds, not at an individual account level.

Senator CONROY—They have managed in recent years to work out what each individual customer's individual cost of administering their own bank accounts was. I am sure there are a few models you could follow.

Mr Child—I am sure, but I guess that if you are to give specifically accurate figures to each individual and not mislead them—

Senator CONROY—The committee is very concerned about comparing apples with apples in your key features statements. One of the suggestions that have been put to us in the last two days has been the possibility of not being able to compare an RSA product with some of the other products that could be in your four, because there is a cross-subsidisation, effectively, taking place in an RSA product.

Mr Child—I do not think there is a cross-subsidisation as such. Obviously, the interest rate return to the account holder would reflect any costs that the bank incurs in running that product. I guess the difference between the RSA and most other superannuation arrangements is that you do know what the rate for return is, when you go in. Obviously, in the variable side that will change, but you are advised when it changes and you know in the future what it is. And in ours you have got the option of moving to the fixed rate fund. Unlike many other superannuation arrangements, it is enshrined in the legislation: the individual can move out of the RSA at any time they like. They are fully portable. So if they feel the return is not competitive or the product is not appropriate for them, they can move at any time, with no exit fee.

CHAIR—In terms of consumer acceptance, are you happy with the take-up rate?

Mr Child—It has met our expectations. We are quite happy with it.

CHAIR—Are you ahead of or behind budget?

Mr Child—We are about on budget as for our planning. That is to say that, for what we expected, it has met our expectations in terms of both account numbers and balances. But in terms of the total superannuation market, and even in terms of the total superannuation products that the Commonwealth Bank offers, it is pretty small bickies.

CHAIR—Just another product.

Senator CONROY—If a 25-year-old walked into your bank and said that they wanted to take out an RSA over a long period, what would you say to them?

Mr Child—It would depend on their individual needs. They would be referred to an adviser. We have investment consultants that have proper authority under the ASC requirements and we would go through a needs analysis, based on their requirements in the future. If an RSA particularly met their objectives for whatever they were out to achieve, then it might be appropriate.

For example, the RSA may be, for a 25-year-old, merely a collection mechanism. Because of the full portability, they can move any portion of their balance to another fund at any time. So it may be a good collection mechanism for my superannuation contributions, but I have also got two other, managed, personal superannuation accounts with other organisations. The RSA actually gives full freedom of choice, because the individual can do what they want.

Senator CHRIS EVANS—Mr Child, the government claims that one of its policy objectives is to reduce the cost of superannuation through these changes. In your submission you seem to support that objective, and also claim the legislation achieves that aim. Could you detail for us how costs are going to be reduced.

Mr Child—I think the normal marketplace will establish itself under normal market pressures for providers of superannuation to increase their efficiency in providing their products to consumers. The analogy that was used yesterday by the ABA is the housing loan market, where we have seen, with increased competition, interest rates and costs for consumers fall quite considerably.

Senator CHRIS EVANS—Is it not the case, though, that competition has been introduced to deal largely with what is seen as a privileged position of industry funds, who operate on a not for profit basis? Is the analogy really accurate?

Mr Child—I do not say that industry funds do operate on a not for profit basis. I am sure that their wholesale investment managers and administrators operate at a profit.

Senator CHRIS EVANS—You would concede though that part of the government's objective is to deal with what they think is a privileged position of the industry and the funds. I do not think there is any secret that the banks have had a bit of a view about that for some time.

Mr Child—I do not accept that. I do not think the freedom of choice legislation is an attack on industry funds. In fact, they are very well-run efficient organisations.

Senator CHRIS EVANS—I did not say an attack. I meant the government has expressed the view that they enjoy a privileged position in terms of superannuation currently. I think the Australian Bankers Association have, in the past, made that claim themselves. I am not trying to put words in your mouth.

Mr Child—I see what you are saying—their position nominated in awards, and the like.

Senator CHRIS EVANS—Therefore, it seems to me that you have to make out the claim that those industry funds, under the pressure of competition, will have to lower their costs. I am trying to get a feel for the areas where you think their costs will come down under the pressure of competition. The bold claim is made: competition equals lesser costs. It is a sort of article of faith. I would like you to prove that to me or at least try and give me some idea where that is going to happen.

Senator CONROY—Give us a guarantee that $12 will drop to $5.

Senator CHRIS EVANS—I am not as unreasonable as Senator Conroy.

Mr Child—I think there are many areas and it is not only available to industry funds but all other providers. The basis of collection of contributions is in the area of administration, for example. A lot of them are paper based. At the moment there can be electronic commerce. There is the opportunity for industry funds. They have commercial administrators of their companies. There may be opportunities there for them to merge those administrations to achieve greater economies of scale. We heard the representative from C+BUS earlier talk about the benefits of economies of scale and I can see that as a definite advantage.

Senator CHRIS EVANS—But you concede in your own submission that, without portability of existing benefits, there will be increased costs brought about by this legislation. So it is not all one-way traffic in this legislation.

Mr Child—No. As I mentioned, the government have indicated their policy is to introduce full portability. The freedom of choice legislation is the first step in full freedom of choice.

Senator CHRIS EVANS—But there are two million new employees per year and we have a couple of years to go. Even saying some turnover, we are talking about at least three million new accounts in that interim period. There are going to be three million extra accounts and all the costs associated with that.

Mr Child—There are going to be three million new accounts, whether there is freedom of choice or not.

Senator CHRIS EVANS—Why is that?

Mr Child—They are new employees.

Senator CHRIS EVANS—Why couldn't they work in the same industry and just join the same fund they were in previously?

Mr Child—They could do. And the same could happen under freedom of choice.

Senator CHRIS EVANS—I am just trying to make the point, which your submission concedes, that without that portability pass we are going to have more accounts.

Mr Child—Exactly. It is a total package. In fact, it could stop that.

Senator CONROY—I am just interested in how we actually achieve portability. If I am, say, with AMP and I have a contract that has a substantial exit fee or penalty for leaving early, do you think the parliament is in a position to legislate to override that? That would be genuine portability.

Mr Child—I would not propose that parliament be legislating on fees and charges in any area if that is a contractual arrangement. The products you are talking about generally are portable now. What stops people moving is the exit fees, so any legislation to implement portability would actually have no effect on those people because they can—

Senator CHRIS EVANS—We are driving down cost, aren't we?

Mr Child—Yes. But you are talking about an arrangement that has been entered into in the past. We are talking about the future.

CHAIR—It is the old funds that have the high exit fees.

Mr Child—The endowment type policies.

Senator CHRIS EVANS—Yes. But this system is about opening the winds of competition to the superannuation tree. If there are high exit fees, are the winds of competition not applied to those funds because they do not have to compete? They are actually ruled out of competition by virtue of high exit fees.

Mr Child—It is up to the individual. We do not provide products like that so I cannot talk with any great expertise in that specific area. My understanding is those exit fees scale down over a period of time so that the individual will, if they look into it, get to decide. In other words, they have the freedom to decide. They may say, 'It's beneficial for me to move from that to another arrangement. It suits my circumstances better.'

Senator CHRIS EVANS—In your submission, you endorse the government's objectives. Senator Conroy and I are just trying to get a feel for what you suggest we do. If we want not a completely free but a competitive market, that is a substantial bar to choice. Exit fees are a substantial bar to portability of existing benefits.

Mr Child—In some products.

Senator CHRIS EVANS—What are you saying to us about what policy should be applied in that regard?

Mr Child—I would not recommend that the government seek to legislate for fees and charges on any type of product. I think it is up to the individual to determine whether that is an appropriate product for them. It is a contractual arrangement they have already entered into. It is up to them to decide whether they want to leave that.

CHAIR—What about putting an exit fee on?

Mr Child—It could inhibit the marketplace. There may be very good reasons for the exit fee based on the type of product that the individual has entered into. I guess we have SIS disclosure requirements and the like today because of the issues of those older types of products which are generally not sold today. To my mind, the issue is that the individual knows up front what they are getting into. There is full disclosure on fees. There is full disclosure on what the exit requirements are. If they leave after X amount of time and there is a penalty, if they are prepared to take that as a condition then that should be up to them.

Senator CONROY—National Mutual went from $6 billion worth of value to $1 billion and there were a lot of unhappy policy holders in there. Here is your chance to strike a blow to let them out.

CHAIR—Choice is the question, Senator.

Senator CONROY—If in a year's time we get you back before us and the RSA administration fee has not dropped from $12, should we believe that that is a function of a lack of competition or that you have the margin cut to the bone at the moment?

CHAIR—That might be a hypothetical question.

Mr Child—It is essentially hypothetical. You would have to look at the situation in a year's time.

Senator CONROY—On your own submission, you would be expecting to see $12 reduced?

Mr Child—No, there may be other services attached to the product. The product can be expanded in its offerings. I could not foresee the future in any event. There could be a change in the economic circumstances which would impact on the cost of provision of products of all types, not only RSA.

Senator HOGG—On the issue of monitoring of fees and charges, would you be happy to see that happen to prove that, as a result of choice becoming available, this does in effect lead to lower costs?

Mr Child—Do you mean by review by this committee, for example? Who would monitor the fees and charges?

Senator HOGG—I am asking just in a broad sense.

Mr Child—And who should do it?

Senator HOGG—And who should do it?

Mr Child—I guess it could be a matter of the industry associations, for example, providing an annual report to the government on products. There are a lot of products in the marketplace. We know it includes excluded funds. There are a lot of fees and charges with those—accountants' fees and the like. It is a very complex area; it would be very difficult to

accumulate all that information. It would be a matter of looking at the operation of most funds in general. Maybe the ISC could monitor it. Maybe this committee could have an annual review process. It could easily be done. It is essentially a matter of monitoring in the marketplace.

Senator HOGG—Is it necessary? One of the claims being made is that this is going to lead to lower fees and charges, and reduced cost benefits to the people who are members of the funds. Where is the proof going to be? I cannot say that anything that you have said to the committee today convinces me that this is necessarily going to lead to lower fees and charges and a reduction in costs in the industry in general and an improvement for the people who are members of the funds.

Mr Child—I guess I can only allude there to the fact that normal market competitive pressures would be created in a choice environment that would require providers of superannuation funds to operate in the most efficient manner to offer the optimum products to meet their consumers' needs.

Senator HOGG—Yes, and that assumes that a number of operators currently in the marketplace are operating either very inefficiently or reasonably inefficiently at this stage.

Mr Child—I do not think it implies that; nobody is saying that. There may be some funds that could be more efficient. I think there are efficiencies to be gained in all sorts of operations, and superannuation funds are no different from any other section of any industry. You continually strive to improve your performance in returns—the cost of providing the information, the product, and so on. The issue is that market forces create more pressure for that to happen. Where there are no market forces, there is less pressure for that to happen.

Senator HOGG—Do you think there are no market forces out there currently driving the situation?

Mr Child—True, there are market forces, but there are many people, as we have seen. In fact, most people in this country do not have any choice in the selection of their superannuation fund. They merely go to their employer and they are placed in the fund selected by their employer.

Senator CHRIS EVANS—How will that be discussed? Will you raise that?

Mr Child—Yes. Under the new regime—and I guess in many respects it is merely a starting point for freedom of choice—you also have to consider in the context of what we are proposing that full portability comes in. The individual will have the opportunity through unlimited choice, limited choice, workplace agreements and the like to have a choice of fund. Clearly, the employer decides on what type of choice the individual will have, and I cannot see any other way around it at the moment. They are merely the gatekeeper at the moment, and that is for historical reasons. In the future, particularly if you have portability, the individual has the four funds.

Senator CONROY—If I am a Commonwealth Bank employee, are you going to offer me unlimited choice or a choice of four?

Mr Child—At the moment, the Commonwealth Bank has just finalised an EBA agreement with the FSU which nominates the bank's in-house fund as the preferred superannuation fund. But I must say that it is my understanding that those negotiations had been going on for some time prior to the choice announcement. I also understand that the staff will be voting on the acceptance of the EBA shortly. Having said that, of course that arrangement is one of the mechanisms to satisfy the choice of fund requirements.

Senator CHRIS EVANS—Mr Childs, in terms of the packaging of options, though, is it the case that the Commonwealth Bank would look to offer to an employer a choice of a suite of funds, all connected with the Commonwealth Bank, that they could offer to their employees—an RSA and an approved fund? Do you envisage that occurring?

Mr Child—I am not from the human resources side so I do not have any close relationship with that, but I would say that they would have the same responsibility as any employer has under their duty of care.

Senator CHRIS EVANS—No, I did not mean to their own employees. In terms of your marketing and the new system, would you envisage the Commonwealth Bank offering me, as a small employer, a package which said, 'Here are four funds all associated with the Commonwealth Bank which you could offer as a choice to your employees. We offer you this service, and here is a suite of four funds which you can offer to your employees.'

Mr Child—It would be very difficult for the Commonwealth Bank to do that simply because we do not have, for example, an industry fund. So you could not meet those requirements.

Senator CHRIS EVANS—Putting that to one side, it seems to me that that would be a natural banking service you would provide to small employers.

Mr Child—We are a full range financial—

Senator CONROY—You are becoming a service provider, though.

Mr Child—Yes, we are a service provider. We now provide superannuation to employers through our life company subsidiary.

Senator CHRIS EVANS—You provide it to me, for instance.

Mr Child—Yes.

Senator CHRIS EVANS—I was just trying to get a feel for what you think is the appropriate relationship between the bank in servicing an employer and the employer offering that bank's services. For instance, I have some concern that a small employer who has a $3 million business loan with your bank and who is offering and encouraging employees to take out your policies may not be totally at arm's length in the sense that it is their total business package with you. I gather that your rates on business loans and other things are to some extent negotiable. What do you think the proprieties involved there ought to be?

Mr Childs—There are trade practices considerations. In the normal competitive environment, there is the reputation risk to the company in any event. I guess what you are getting at is coercion. In other words, the bank could say, 'Unless you take out these superannuation arrangements with us, we will not give you this loan.' Is that what you are saying?

Senator CHRIS EVANS—I do not mean the coercion. If you have a relationship with an employer, it seems to me that part of the thing would be service providing, et cetera. I am more concerned, from a public policy issue, about where we ought to draw the line as to what is acceptable practice, what ought to be at arm's length, and what mechanisms are in place to make sure that the superannuation offer to the employees is to their advantage. You admitted before that the employer is the gatekeeper on all this.

Mr Child—Yes.

Senator CHRIS EVANS—Our concern is to make sure that employees get a free choice not restricted or impacted by the employer's interests. Do you see what I am getting at?

Mr Child—Yes.

Senator CHRIS EVANS—I am trying to tease out where you think the line might be.

Mr Child—I guess in any relationship with a provider of financial services or, indeed, any services—whether it is a bank, insurance company or whatever—these days we are much more looking at the individual relationships themselves and the profitability, if you like, or the value of that relationship to the organisation. That may involve, for example, in a retail consumer sense, the type of relationship you have with us—the loans you have and the types of accounts you have. These can impact on the fees you are charged on accounts. It is looked at in a relationship sense. I would see that the provision of loans, superannuation and the like would be in the same vein.

I guess the protection, as I see it, is in the freedom of choice itself in that if, inappropriately, the employer chose a fund, not exercising their duty of care to the employees but rather for their own benefit, then the protection there would be that the individual could exercise choice at any time. In other words, at least once a year they could exercise choice and move to another fund. That would be further enhanced by having the full portability of benefits so that if the individual felt that that was the case—it was not their appropriate fund—then they could move their benefits to another fund that they felt was more appropriate for them.

Senator CHRIS EVANS—Only one of the ones offered by their employer.

Mr Child—No, they could go to any fund. That is the benefit of full portability—there are no restrictions.

Senator CHRIS EVANS—That is not under the current legislation.

Mr Child—No. That would be—

Senator CHRIS EVANS—But if the employer offers limited choice then all they have is the choice of those four funds.

Mr Child—At that time, yes. For example, if one of the choices is an RSA, now legislatively they are fully portable. In my mind it is an unlikely situation, but if the individual wanted to move out of those four funds they could merely make their choice the RSA and then move their balance over to that RSA. The contribution would still flow through but they could move their balance to any other fund.

Senator CHRIS EVANS—I have badgered you enough and I think Senator Allison has some questions.

Senator ALLISON—A lot of submissions have made the point that advertising will increase the costs to the industry enormously. Is that your view as well? Could you tell us what advertising budget the Commonwealth Bank will have over the next financial year for advertising your products?

Mr Child—I cannot give you the budget for advertising over the financial year because I do not know it. Clearly advertising depends on what type of advertising we are talking about. Whether it is merely the preparation of key feature statements, newspaper advertising, running seminars or television advertising it is clearly a cost that will impact on providers.

Senator ALLISON—Will the Commonwealth Bank be running television commercials, for instance?

Mr Child—I do not know. We are currently considering our strategy in response to the freedom of choice legislation and how we approach that is a matter to be determined. I would say that the Commonwealth Bank has never advertised superannuation on TV.

Senator ALLISON—What about RSAs? How did you approach the RSA?

Mr Child—Again, similarly, there is no television advertising. It was print media advertising about the existence of the RSA.

Senator ALLISON—What was your budget for RSA advertising in the last year?

Mr Child—Again, I am not sure.

Senator ALLISON—Roughly?

Mr Child—It would be hundreds of thousands of dollars, I think. I would not want to be tied to that because I do not know. Let us say if you have a national newspaper campaign, it usually costs, depending on the duration of it, around the $100,000 to $200,000 mark. Obviously the more weeks you run it—

Senator ALLISON—I just did a quick calculation on the C+BUS advertising budget. I do not know whether you were here when C+BUS were presenting?

Mr Child—I did hear it, yes.

Senator ALLISON—They went from something like $2 per head in the previous financial year to $9 in the current financial year for advertising. That did not include any television and was mostly print media.

Mr Child—Is that a pre-choice environment?

Senator ALLISON—One was the current financial year and the $9 was the 1998-99 financial year. All I am suggesting is that there is an increment from $2 to $9 and I wonder—

Mr Child—Obviously they have decided to expand their promotion of their product. That is something that each individual provider would need to consider. Having said that, in effect, the promotion of a product has no impact on the fees and charges that an individual provider charges. There is our product out in front of you. If you look at the key feature statement, it tells you how much you are going to be charged, the administration fee. The investment management fee is stated in the product. If we as a provider determine that we want to increase our promotion of that product, then it is obviously on the basis that we are going to get increased membership, increased funds and the like. Then those fees and charges remain unchanged. If that does not happen, then clearly we as an organisation would wear that cost.

Senator ALLISON—Is that correct?

Mr Child—Yes.

Senator ALLISON—Advertising would not be reflected in the fees and charges or the administration costs in your product?

Mr Child—There would be an allocation in the cost of the product for promotion, preparation of key feature statements and those sorts of issues.

Senator ALLISON—Where is the allocation reflected then?

Mr Child—It is reflected in the total management charge. For example, when our personal—

Senator ALLISON—It is under the administration fee?

Mr Child—Yes, you have got a fee, $44 a year, that we say we are going to charge for our personal superannuation fund and the management fee—

Senator ALLISON—The more companies have to advertise, the more that fee increases? That is straightforward.

Mr Child—Again, there is competitive pressure. If you increase the fee and it becomes too costly in the marketplace, you are not going to sell any. That is where we come back to market forces.

Senator ALLISON—But for you that cost does not go off somewhere else in the organisation? It is contained within the—

Mr Child—It is part of the product but it cannot exceed the fees that we are charging for the product. If it does, then the organisation bears it; it reduces our profits.

Senator ALLISON—I think we understand that. What does the bank believe is an appropriate disclosure regime? What sorts of things do you think need to be disclosed? Have you done any work on that thus far? Have you had a look at the ISC's—

Mr Child—We have. We have worked through membership of industry bodies such as LISA, the ABA, the ISC and other regulatory bodies on the preparation of disclosure requirements. I believe the current ISC SIS determination requirements are a very good basis. Nevertheless, I do believe that they can be improved and probably be more user-friendly for consumers. I think the ISC proposal to have a more simplified disclosure regime without any less information is the way to go. The intention would be to disclose everything. We would fully support full disclosure of all fees and charges, commissions, entry and exit fees, the cost of the product and the risks involved in the various types of investment options.

One thing that is important, and I guess that is one of the thrusts of our argument about the ISC disclosure requirements, is that there needs to be a consistency across all products; that all people disclose this information.

Senator ALLISON—Can I take it that your bank would not be in favour of a prohibition on commission fees?

Mr Child—I do not think as an institution we would favour any regulation of fees, commissions and that sort of thing. We would see the market as establishing what would be considered an appropriate price, the same as in any other market, whether it is purchasing a car or buying a house or whatever. I think, though, the important thing is that all those fees are disclosed. If we go back to the issue that Senator Evans raised before, those older policies were sold in a time where we did not have the current disclosure regime. We did not have up-front disclosure fees, charges and exit fees. They were lost in the fine print, as it were.

Senator ALLISON—So you do not see anything inherently problematic about commissions? Obviously, there has been a lot of reference to the UK and the Chilean experience.

Mr Child—That is right. For our organisation, we have no commission based sales. We have no commissions, and our products have no entry and no exit fees. That is our strategy in the marketplace. But other organisations do, and I guess it comes back to that disclosure. As long as people are aware of what they are paying and understand the consequences of that, then it is up to them to make that choice.

CHAIR—It probably would not be a big problem for banks, but don't you concede that Ms Holdsworth's group—she appeared before us earlier—would be very vulnerable to active financial planners, in terms of enrolling with probably fairly significant fees and even switching? They are a very vulnerable group, obviously: very uninformed—

Mr Child—I agree.

CHAIR—They could be a target group for people such as our colleague is referring to.

Mr Child—There I see the education campaign as being of vital importance. One of the thrusts that I consider important in an education campaign is to tell all people where they can go for further information.

CHAIR—How do we get through to these sorts of people?

Mr Child—I know the ATO is working with the industry at the moment, through the communication working group and the implementation—

CHAIR—Do you call these people the industry?

Mr Child—No; but I am talking about developing an education campaign, a program that will indeed target everybody in the country. It has got to be a national campaign, coordinated at all levels. It is particularly important that segments of the market like this are targeted, because they obviously have issues such as how they get information and where they go for it. I would see new starters as another important group: people who are not actually in the work force. That is an important area you would need to target, as well.

Senator ALLISON—It has been suggested that this education campaign could not simply start and stop; it would have to be ongoing, because of those new entries. Would you agree with that?

Mr Child—I agree. It is very important. We are talking about people saving for retirement. It is a very important issue that people must have an understanding of. There will always be people who do not want to know, but it is important that people who wish to get the knowledge and understand what they can do about saving for their retirement can have access to education.

Senator ALLISON—Back on the subject of commissions, would you think it inappropriate for this advertising campaign to suggest to people that not all products will have a commission associated with them and that that is something they ought to look for? Would you be as explicit as that?

Mr Child—I think so. You would be talking about the things to consider when choosing a fund. Has it got the right investment mix to reach your objectives? What are the fees and charges? Are there any exit fees? What are the insurance arrangements? Those are the sorts of issues that people will need to consider. Another thing that people will consider is that, at the moment, retirement savings are compulsorily put in by your employer, and individuals do not really know—because most of them are in accumulation funds—what that will be when

they ultimately retire. It is important that individuals are aware of where they can go for advice and the like, on what they will need in order to reach their lifestyle objectives in retirement.

Senator ALLISON—Should the key features statement include risk and return information?

Mr Child—Yes, definitely.

Senator ALLISON—Will that be difficult under some circumstances?

Mr Child—No; we do it now. We cannot give an indication of future returns, and it would be inappropriate to do so—unless, of course, it is a capital guaranteed product like an RSA, because there you actually state what the return is going to be.

Senator ALLISON—If we are reflecting back, should that be over, say, a set three-year period, rather than a three-month period?

Mr Child—At the moment, we reflect back over five years. That is a disclosure requirement—historical data on the fund. But there is also a requirement under the SIS disclosure requirements that you put in historical data—to give an indication, obviously, to the consumer—on what the performance of the fund has been. But there is a statement that is required to go in stating that past performance is no indication or guarantee of future returns. I cannot remember the exact wording, but it is along those lines. I think that is important because that is part of the education process. People should understand, for example, if they are going into the funds which invest in equities, that there is a risk from time to time that the value will drop.

Senator ALLISON—Funds need to embark on very big advertising campaigns, perhaps.

Mr Child—I think it comes back to education. I think that is not advertising per se; it is more an education program, and I think it is important that the industry and the government work towards that.

Senator HOGG—What period of time would you see that education program needing to take place, because it seems to me that you cannot start up the freedom of choice of funds until people have been educated; otherwise you make a mockery of the whole thing. How long do you see the process being needed?

Mr Child—I see the process as never ending.

Senator HOGG—I will guarantee that it is not going to be an ending process, but initially there must be some sort of phased approach to it.

Mr Child—I go back to the point I made in the submission, that it is a bit like the chicken and the egg. If we waited for everybody—and give everybody a test that they understand superannuation before you implement it—to have freedom of choice, then I do not think we would ever get there.

Senator HOGG—I accept that but, nonetheless, we are embarking on a major difference from what has been in existence previously. You are talking about the need for education, the need for people to be informed so that they can make an informed choice. It would seem to me that we should take reasonable steps to ensure that this opportunity has been made available to people. What I am trying to get is some feel from you of the sort of time frame.

Mr Child—I would say that the minimum time frame—and this is only, I guess, a very subjective view—would be three months. But, clearly, the longer time you have the better.

CHAIR—Are you happy with the commencement date of 1 July 1998?

Mr Child—Yes.

CHAIR—You are.

Mr Child—I guess that, unless people have to make a decision, they are not going to be motivated to learn. If you keep putting things off, what is in it for them to understand? We have heard before about people not understanding superannuation because in many cases they have no role to play in superannuation. The choice is made for them; they just merely get it paid by their employer. They have no understanding of what their requirements are for their longer-term savings, what they will need to achieve, whatever their lifestyle requirements are in retirement.

CHAIR—But you are saying three months. We will not have the regulations—it will be passed 1 July—in terms of meeting your time frame, just for education alone.

Mr Child—Yes. Much of the education can commence straight away. Choice of fund does not change the fundamentals of superannuation and saving for your retirement. That sort of education can start now.

Senator HOGG—We have had evidence before this committee, in an industry where there is a reasonable focus on superannuation and conditions of employment and so on, that at a workplace only five to eight per cent of the population could be expected to have any real knowledge or interest in superannuation.

Mr Child—Exactly.

Senator HOGG—It seems to me that, if we are going down this path of making it a choice, people should at least have the right to know what it is about. Of course, that leads me to another issue. We had evidence before us which showed that 2.5 million Australians, according to a survey done by the ABS, suffer literacy and numeracy problems; 48 per cent of the population are in the two lowest categories, and it is a five-scale ranking. So where do we sit with those people? They are the people who will be most affected by this move to choice; they are the people who will be most vulnerable—not the people at the top end of the survey. It is the people at the bottom end of the survey, yet they will be the hardest to reach, I would imagine.

Mr Child—Most definitely.

Senator HOGG—The time frame that you put to us seems very limited indeed if you are to reach these people.

Mr Child—It is not a once only opportunity. The individuals, if they are new starters in that workplace, from 1 July will have to exercise choice. It is appropriate that an education campaign is in place to enable them to at least have a basic understanding of what superannuation is, what it means to them, and what they need to do in terms of selecting the fund. If they do not wish, or do not understand, what superannuation is in that time, then they would go into the default arrangement that is determined by the legislation, which is essentially the same as what would happen now. They would go into the fund selected by the employer. They would have no education.

Senator HOGG—I thought this was about employee choice. It is their money. I thought choice of fund was about employee choice, yet your response to me is quite the opposite.

Mr Child—No, I do not think so. I mentioned before that the employer, under the legislation, will determine what type of choice is offered to the employee.

Senator HOGG—That is right.

Senator CHRIS EVANS—You have a different hat on, I would have thought, from normal. Bankers and businessmen usually put to us all the time that they need certainty about government legislation and they need time to put systems in place to respond to it. You are talking about a bill that is yet to be debated in the parliament, that may well be amended quite substantially in the parliament, and about regulations that will not be formulated until some time after that. Quite frankly, at the earliest it will be April before you see the form of the bill. Are you seriously suggesting to us, as a bank that provides advice to small business and to a range of business interests, that it is good practice for government legislation, and without regulations, to be foisted on that industry without further warning than that?

Mr Child—Clearly, people would argue that the more time you have got the better things are. I guess it is a matter of you making a date to start. You have got to start somewhere. The issue with superannuation choice is merely about individuals exercising choice. The superannuation requirements in this country essentially are unchanged and the reasons for superannuation are unchanged. The education campaign can commence before the legislation. What you are talking about, the mechanics of how people—

Senator CHRIS EVANS—You may have won me about portability of past contributions. I might move in the Senate to include that in the legislation. Would you not want some time to adjust to that change?

Mr Child—No, our products are fully portable now.

Senator CHRIS EVANS—So you have a market edge!

CHAIR—Speaking on behalf of your local branch managers, even the banks have got a big educational campaign to come to grips with because undoubtedly many small businesses

will seek information from the banks. I am worried about your enthusiasm for this early date in terms of getting your local branch managers informed. You might be able to get your products and your RSAs out but, in terms of your managers who are going to be in the forefront in having to advise small business people, the time constraint might be a little bit difficult in terms of getting the detail that small businesses might be seeking before we include the regulations.

Mr Child—Our final education strategy for the Commonwealth Bank has not been finalised at this stage, but the strategy is to address communications and education in both ways, both for our own staff and for the wider community. Our strategy would be to have an education program for those staff who would be dealing with the employers, and then with their employees. That is a definite requirement. It is a big project; there is no doubt about that. I am not saying it is not challenging, which is a word that is being used fairly often, but we believe that we have the resources and capability to achieve it.

Senator HOGG—How much do you have allocated for that campaign?

Mr Child—The final figures have not been determined, so it is hard to say.

CHAIR—As there are no further questions, thank you very much. That was a robust way in which you stood up to some fairly vigorous questioning.

Mr Child—Thank you.

Committee adjourned at 4.11 p.m.