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SENATE

SELECT COMMITTEE ON A NEW TAX SYSTEM

Reference: A new tax system

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SENATE
SELECT COMMITTEE ON A NEW TAX SYSTEM
Thursday, 11 February 1999

Members: Senator Cook (*Chair*), Senator Ferguson (*Deputy Chair*), Senators Conroy, Gibson, Murray, O'Chee and Sherry

Substitute members: Senator Lees

Participating members: Senators Brown, Colston, Harradine and Margetts

Senators in attendance: Senators Campbell, Chapman, Conroy, Cook, Ferguson, Gibson and Sherry

Terms of reference for the inquiry:

- (1) That a select committee, to be known as the Select Committee on a New Tax System, be established to inquire into and report, on or before 18 February 1999, on the economic theories, assumptions, calculations, projections, estimates and modelling which underpinned the Government's proposals for taxation reform, contained in *Tax reform: not a new tax, a new tax system*.
- (2) That, in conducting its inquiry, the committee examine the following matters:
 - (a) the estimated levels of revenue to be generated or foregone due to the proposed changes, including the estimated level of revenue to be generated by imposing a goods and services tax (GST) on the basic necessities of life (such as food, clothing, shelter and essential services) and books;
 - (b) the effects of the proposed changes on:
 - (i) national Gross Domestic Product,
 - (ii) national export performance and national debt,
 - (iii) the national Consumer Price Index, and
 - (iv) the distribution of wealth in the Australian community;
 - (c) the effects of the package on future federal budget revenues, expenditures and surpluses, including a critical assessment of the economic assumptions underpinning the Treasury's projections in this regard;
 - (d) the effects of the taxation and compensation package on disposable income and household

spending power for a range of 'cameo profiles', including but not limited to those presented in the proposals, under the following scenarios:

- (i) a GST extended to the necessities of life (such as food, clothing, shelter and essential services), and

 - (ii) a GST not extended to the necessities of life (such as food, clothing, shelter and essential services);

 - (e) with the aim of identifying families and groups who may be disadvantaged by the Government's proposals, focusing on lower and fixed income individuals, families with dependent children or adult members, groups and organisations, and those with special needs, such as people with disabilities;

 - (f) the assumptions made as to consumption and saving patterns and the cost of living for the various 'cameo profiles';

 - (g) whether the stated objectives of the package can be met by using an alternative and fairer approach; and

 - (h) such other matters as the committee considers fall within the scope of this inquiry.
- (3) That the committee also inquire into and report, on or before 19 April 1999, on the broad economic effects of the Government's taxation reform legislation proposals with regard to the fairness of the tax system, the living standards of Australian households (especially those on low incomes), the efficiency of the economy, and future public revenues, including:
- (a) the effects on equity, efficiency and compliance costs of including, or not including, food or other necessities of life in the GST, together with any related adjustments to the package if food or other necessities of life were GST zero-rated;

 - (b) the effectiveness of the package in easing the poverty traps facing people on low incomes, and reforming and streamlining tax and income support for families with children, taking into account the static and life-cycle impacts on families with children;

 - (c) options for amending the income tax schedule to make it more equitable;

 - (d) the findings of the Tax Consultative Committee chaired by David Vos;

 - (e) options for improving the effectiveness and fairness of the tax system and reducing inequitable or unreasonable tax avoidance and minimisation, including consideration of alternative areas for tax generation, either where there are current tax concessions or where Australia's taxation system does not address major tax potential, and without limiting the foregoing, the consideration of taxation of foreign companies operating in Australia, including the relative merits of resource rent taxes, royalties or land taxes as compared to company tax in securing a fair compensation to Australia for use of its resources, whether the 150% tax concession for research and development should be restored and whether small companies should be allowed to be taxed as partnerships.

- (f) the potential for tax avoidance and evasion, including an examination of the effects on the cash economy, and the potential impact of electronic commerce on the future viability of a GST;
- (g) the effects on compliance costs;
- (h) the potential for reducing payroll tax, including by providing incentives to create long-term employment and by replacing payroll tax with a carbon tax;
- (i) whether there are other means available for rebating or reducing the indirect taxes or excessive user charges embedded in exporters costs;
- (j) excises, including those on fuel, tobacco and alcohol - identifying the industries which benefit, and to what extent, from the proposed changes to taxes on fuels;
- (k) the effects on interest rates;
- (l) the effects on investment, in both physical and human capital formation;
- (m) the effects on small business;
- (n) the effects on the non-profit sector, including the total amounts of money contributed by the sector, administrative costs, impacts on the viability of the organisations, and the consequent effects on the wellbeing of the community;
- (o) the effects of the GST on particular industries, including:
 - (i) key service industries such as tourism,
 - (ii) the Australian automobile and related industries, having particular regard to the effects of changes to fuel excises,
 - (iii) other 'invisible' export industries, such as education and financial services, and
 - (iv) the international competitiveness generally of Australian industries;
- (p) the implications of not requiring that the GST component of goods and services be itemised on receipts;
- (q) the effects of the taxation reform legislation proposals on rural and regional stakeholders, including:
 - (i) the effects on particular regions,
 - (ii) the effects on rural and regional communities of different tax regimes on fuel - especially the cost of transport of goods to rural communities,
 - (iii) the effects on primary industry of replacing the current sales tax exemption on agricultural machinery with a GST, and
 - (iv) the effects of imposing a GST on food and other necessities of life on remote communities, including Aboriginal and Islander communities;
- (r) the effects of the Government's taxation reform legislation proposals on state and local government administration, including:
 - (i) the effects of the package on future federal-state financial relations and the capacities of state and local governments to adequately finance their respective responsibilities in both the short-term and the long-term, including the effects of

the proposed transfer of responsibility for local government financial assistance to the states, and whether it discriminates between states,

- (ii) the implications for specific purpose programs,
 - (iii) mechanisms required to lock in commitments made by federal and state governments with regard to the new arrangements,
 - (iv) the implications for future federal-state financial relations of not extending the GST to the necessities of life (such as food, clothing, shelter and essential services) and books, and any adjustments to the proposed arrangements which would be required to federal-state financial relations,
 - (v) the implications of the package for the quality and affordability of public utility services and for the public utility concessions for social security recipients,
 - (vi) the effects of application of the GST, and of changes to tax status, on local government and its activities, particularly commercial activities,
 - (vii) the implications for the delivery of Commonwealth Government services, including employment services, welfare and other social and cultural services, and
 - (viii) the extent to which the proposed compensation arrangements are secure from change to below adequate levels;
- (s) the adequacy of measures to ensure that consumers fully benefit from the abolition of existing taxes;
- (t) the effects of the taxation reform legislation proposals on legal and constitutional matters, including:
- (i) the constitutionality of the proposed mechanism for future changes to the GST, including whether such changes would present a significant hurdle to future increases, or reductions if deemed necessary to stimulate the economy,
 - (ii) the constitutionality of the proposed reorganisation of federal-state tax arrangements and whether the powers and functions of states and territories are materially affected by this reorganisation, and
 - (iii) the effects of the proposals on the cost of access to justice; and
- (u) options for amending the proposed legislation to improve its fairness or efficiency.
- (4) That, in reporting on the matters referred to in paragraph (3), the committee have regard to the reports of the references committees referred to in paragraph (17) and integrate the findings of those committees into its final report where relevant.
- (5) That the committee consist of 7 senators, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, and 1 nominated by the Leader of the Australian Democrats.
- (6) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
- (7) That:
- (a) senators may be appointed to the committee as substitutes for members of the committee in respect of particular matters before the committee;
 - (b) on the nominations of the Greens or independent senators, participating members may be appointed to the committee; and

- (c) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee.
- (8) That the committee shall elect as its chair a member nominated by the Leader of the Opposition in the Senate.
- (9) That the committee shall elect as its deputy chair, immediately after the election of the chair, a member nominated by the Leader of the Government in the Senate.
- (10) That the deputy chair act as chair when there is no chair or the chair is not present at a meeting.
- (11) That the committee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.
- (12) The quorum of the committee shall be a majority of the members of the committee.
- (13) The committee set 29 January 1999 as the date for receipt of submissions.
- (14) That the committee hold hearings in each state and territory as required.
- (15) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (16) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it and a daily Hansard be published of such proceedings as take place in public.
- (17) That the following matters be referred to references committees in accordance with the schedule below for inquiry and report by 31 March 1999, and that in undertaking these inquiries the committees have regard to the report of the Select Committee referred to in paragraph (1) and consult widely, holding hearings in each state and territory, as required. Submissions to these inquiries are to be made by 29 January 1999.

Committee	Matters for Inquiry
Community Affairs	The impacts of the Government's taxation reform legislation proposals on the living standards of Australian households (especially those on low incomes), including:

- (a) the scope and effectiveness of the proposed arrangements on charities, child care services, aged care services, welfare services, local government human services and all not-for-profit organisations in maintaining the quality and affordability of essential community services, including the implications for the public funding of these services and the implications for the commercial activities of these organisations, and whether unconditional GST-free status should apply to *bona fide* charities;
- (b) a detailed examination of the zero-rating of health services, including an examination of which services should be zero-rated;
- (c) the effects on community sector organisations of changes to their tax exempt status, and of the compliance costs of the proposed tax arrangements;
- (d) the effects of the proposed private health insurance rebate;
- (e) the effects on people with disabilities;
- (f) the effects on public, community and private housing, including the levels of rents; and
- (g) options for amendments to improve the fairness or efficiency of the proposed legislation.

Employment,
Workplace Relations,
Small Business and
Education

The employment incentive and education impacts of the Government's taxation reform legislation proposals, including:

- (a) the scope and effectiveness of the proposed zero-rating arrangements for education in maintaining its quality, accessibility and affordability;
- (b) the effects on employment;
- (c) the effects of the proposed GST treatment on the quality, accessibility and affordability of employment services;
- (d) the effects on education of imposing a GST on, or zero-rating or exempting books and associated education resources;
- (e) the effects on education of imposing a GST on ancillary resources, services and commercial activities, including the effects on overseas students;
- (f) the effects of the proposed changes to the tax system on employment;

	<ul style="list-style-type: none"> (g) the effects on wage costs, particularly if the basic necessities of life are taxed; (h) the scope and effectiveness of changing the unemployment benefits, pensions and Newstart Allowance 'tapers'; (i) the effects of the proposed changes to the tax system on training and adult education; and (j) options for amendments to improve the fairness or efficiency of the proposed legislation.
<p>Environment, Communications, Information Technology and the Arts</p>	<p>The broad effects of the Government's taxation reform legislation proposals on the environment, the arts and information technology, including:</p> <ul style="list-style-type: none"> (a) the environmental effects, and likely impacts of changes to fuel excises, particularly but not only diesel, and the replacement of WST with GST on vehicles and other transport services including: <ul style="list-style-type: none"> (i) possible increases in greenhouse gas emissions, (ii) increases by amount and type of air pollution, (iii) the effects on public and rail transport, (iv) the effects on alternative energy use in transport including, but not limited to, compressed natural gas, (v) the changed effects on native forests of logging or woodchipping due to the tax package, and (vi) the changed effects of mining in environmentally sensitive areas due to the tax package; (b) the environmental effects of the replacement of Wholesale Sales Tax by the GST and associated changes in fuel excises on electricity and natural gas; (c) the impacts of the proposed tax changes on the prices and existing and potential use of renewable energy particularly but not only solar energy technology and energy efficiency equipment; (d) the environmental effects of any changes to taxes on exports; (e) the consistency or otherwise of the proposed changes in taxation and excise arrangements with Australia's international treaty obligations, including its obligations under the Framework Convention on Climate Change;

- (f) options for a tax system which better achieve environmental objectives, including incentives for fuel efficiency and alternative energy sources, such as measures which promote both environmental protection and employment generation;
- (g) the extent to which environmental impacts were considered in the drafting and final copy of the Government's tax package;
- (h) the scope of any consultation on environmental matters with experts in Environment Australia or any other Government departments other than the Treasury and Finance departments;
- (i) the impact of a GST on ticket sales for the performing arts;
- (j) the effects of a GST on the transfer of grant monies for arts projects;
- (k) the effects of the tax proposals on sponsorship provided by the private sector to individual artists and arts organisations;
- (l) the extent to which the package will block consideration and introduction of 'ecotaxes';
- (m) the effects of a GST on not-for-profit conservation and arts organisations; and
- (n) options for improving the environmental effects of the package.

- (18) That the provisions of the bills implementing the proposed new tax system stand referred to the previously mentioned committees for inquiry and report in conjunction with the terms of reference authorised by this resolution, as soon as the bills have been introduced in the House of Representatives.
- (19) That when the bills referred to in paragraph (18) are first introduced in the Senate and a motion is moved for the second reading of the bills, debate on that motion shall be adjourned at the conclusion of the speech of the senator moving the motion and resumption of the debate shall be made an order of the day for 19 April 1999 without any question being put.

WITNESSES

SPIER, Mr Hank, General Manager, Australian Competition and Consumer Commission **848**

Committee met at 12.32 p.m.

CHAIR—Today the committee continues its inquiry into the first stage of the proposed changes to the Australian taxation system. The Senate referred the inquiry to the committee on 25 November last year. The committee expects to report on the first stage of its inquiry by 18 February 1999, which is only a few days away, and on the second stage by 19 April 1999.

For the record, this is a public hearing and, as such, members of the public are welcome to attend. Before we commence taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attach to the parliament, or members and others, necessary for the discharge of the functions of the parliament without obstruction and without fear of prosecution. Any act by any person that operates to the disadvantage of a witness on account of evidence given by him or her before the Senate, or any committee of the Senate, is treated as a breach of privilege.

[12.33 p.m.]

SPIER, Mr Hank, General Manager, Australian Competition and Consumer Commission

CHAIR—Welcome, Mr Spier. I invite you to make an opening statement related to your submission and then take questions from the committee.

Mr Spier—In terms of an opening statement, I can say a few words. Clearly, the committee has asked that I be here, so no doubt there are some questions. In terms of the role of the ACCC, I will very briefly say that our role in relation to the GST will be to administer some new legislation which, of course, is not yet law. In fact, it is only in its early stages in the House of Representatives. The commission clearly has a major role in terms of the marketplace impact of the tax and related issues. It will certainly be giving that matter great priority and do its best in its normal successful operations.

CHAIR—Before I invite Senator Ferguson to ask a question, I will take advantage of my position as chairman and ask you a few questions. You are out there in the real world looking at issues of competition in the economy. Do we have a perfectly competitive economy in Australia?

Mr Spier—I am not sure if I am expert enough to say things like that. It is very different from market to market. Having regard to some of the policy instruments that have been used from a mix of the Trade Practices Act to straight-out regulation, there are clearly some areas that are not competitive.

CHAIR—Could you tell us which areas they are?

Mr Spier—I do not think I can really get into that. I suppose the point I am making is that there are some areas where the regulatory framework is such that it assumes there is not all that much competition or there is not all that much competition for the time being. There are not many areas where the Prices Surveillance Act has been activated and the reason to activate that is because there is presumed not to be a lot of competition.

CHAIR—You decline or are reluctant to name the areas where you think that may be the case. Is there some reason why we cannot name them and have it out in the open?

Mr Spier—One example is that under the Prices Surveillance Act we monitor postal prices. Clearly there is a decision by the government there that the market is a special market and is not as competitive as, say, others. There is not much else that is declared under the Prices Surveillance Act, but airports—not airline prices but airports themselves. Glass containers are still subject to the Prices Surveillance Act, and very recently stevedoring was made subject to the Prices Surveillance Act.

CHAIR—Just on airports and airlines, you are not commenting on the competitiveness of the Australian airline system, although it has been a constant public argument, hasn't it, that Australia would be better off if we had three airlines rather than two, and that planes left according to demand rather than at the same time according to a duopoly?

Mr Spier—I have seen that said. It is not the commission's role to get involved in domestic airline policy. There have been attempts at entry; they have been unsuccessful. The marketplace at times is pretty savage.

CHAIR—Would you regard the airline system as a case of perfect competition?

Mr Spier—There are very few markets which have perfect competition.

CHAIR—Can you just tell us which industries the ACCC has taken action in because competition has not been present or collusion has occurred?

Mr Spier—How long have you got?

CHAIR—It is too long a list, is it? Because it is too long, can you provide us with the list. Would you mind giving us an overview of the list now?

Mr Spier—The Trade Practices Act prohibits a number of forms of behaviour, and the most serious is collusion. In terms of industries that includes petrol, paper products, concrete, cement, windscreens and sheets, of all things. Express freight is one of the more spectacular ones, and also in a lot of building equipment areas, building products and building services themselves. That came out of the Gyles royal commission of some years ago.

If you take a look at the Australian marketplace we would have taken action in a lot of areas for collusion, not always successfully, but mainly successfully. We can certainly provide you with a list. It goes back to about 1974, when the act started. There have been something like 90 actions for anticompetitive conduct offences.

Senator CONROY—Would they reoccur in the same industries?

Mr Spier—Sometimes; not many, I must say, but sometimes. For instance, concrete: the first case was down in Melbourne and about 10 years later there was a case in Queensland, but involving, to some extent, the same players. With the petrol cases, which have not been the most successful for us, that is the same industry and sometimes the same players. But it is not too often the same players. The other issue, of course, is that collusion is not exactly put on the front pages of newspapers every day. There may be things happening that we simply do not know.

CHAIR—You rely on people to report it.

Mr Spier—We rely upon the marketplace, competitors, ex-employees, simply things that we observe ourselves.

CHAIR—Can you give us an example of some of the major industries? One comes to mind—supermarkets. There are only a few major supermarket chains in Australia. Is that an example of less than perfect competition?

Mr Spier—I understand there is to be a parliamentary inquiry into that very issue. The supermarkets would say that they are very competitive. If you talk about numbers, yes, there

are not many players. To some extent, that has happened for a number of reasons, including the market itself, because there was a major new entrant, Davids Holdings, and they have since had some problems. If you talk about numbers, it does not look competitive; but if you talk to the supermarkets, they say that in the market itself they are very competitive.

CHAIR—I have seen surveys done in regions about prices for goods in a supermarket, compared competitors to competitors, but often you do not see very much variation, if any, between the prices.

Mr Spier—That is to be expected if there are only a few players.

CHAIR—If someone were to assert that there is 100 per cent effective competition in Australia that wouldn't be right, would it? It is less than that.

Mr Spier—It really depends which markets you are talking about. But as a statement across the board, if there was that we would not exist.

Senator CONROY—Can you think of one market where there is 100 per cent perfect competition?

Mr Spier—Not off the top of my head, no.

CHAIR—In this building this week there has been a lot of debate about computer modelling. If someone made an assumption, for the sake of a computer model, that there was 100 per cent perfect competition, that would not be a sound assumption, based on the evidence that you have given us, would it?

Mr Spier—I cannot talk about the models, and certainly the models are what you say are your models. We are an enforcement agency that looks to take action against anticompetitive conduct and we are an active agency, so you can take it—

CHAIR—But the models are only as good as what you put in them. If you put wrong assumptions in them, you get wrong answers at the other end. If the assumption going in them, based on what you are telling us now, is that there is 100 per cent perfect competition, it is reasonable to assume, therefore, that the answers might be wrong, isn't it?

Mr Spier—I cannot answer that.

Senator CONROY—If you were being asked to provide assumptions for a model, would you plug into a computer model 100 per cent competitive economy assumption?

Mr Spier—It is not something that we are at all expert at, it is not our role, and I cannot really answer that. We just do not do modelling. And I am a lawyer, not an economist.

Senator CONROY—I am not asking you to model. What I am asking you about is if somebody phoned you up and said, 'We are looking for the best information. You are the anticompetitive body. Should we use a 100 per cent figure? Would you tell us to use 100 per cent competitive assumption?'

Mr Spier—It depends what you are looking at to some degree, because we look at the micro—

Senator CONROY—You said you cannot identify one single industry where you believe there is a 100 per cent competition, and someone phones you up and says, ‘For the whole economy, should we plug in 100 per cent perfect competition?’ and you seem to be—

Mr Spier—We simply do not get into that. What I was trying to say earlier is that we look at conduct at the micro-level that is anticompetitive. A lot of that modelling is at a much broader level, looks at the much bigger picture. We look at a narrow picture in terms of what is happening in a particular marketplace involving a number of companies.

Senator SHERRY—But you have given us a macro-judgment that there is no totally, 100 per cent competitive market within the Australian economy. It is a macro-judgment.

Mr Spier—Based on our micro experience.

Senator SHERRY—Yes.

Senator CONROY—We are after your real-world experience. That is actually what we are just trying to get from you, a view of the real world.

Mr Spier—I cannot speak for every market, either, but we are involved in many, many markets.

CHAIR—That is right. If I may resume the questioning and thank my colleagues for their assistance: the reason why we want to talk to you, Mr Spier, is that you are out in the real world. In this place, in Canberra, far removed from the real world, we can often make decisions that ordinary people out there have to put up with because we have judged wrongly. You are an agent of the real world sitting before us. If a decision is made here or in academia that it can be assumed that there is perfect competition, it seems to me that the summary of your evidence that you have just provided is that that is not entirely right—there is not perfect competition.

Mr Spier—In terms of our role at the micro-level in the industries that we know, we are often looking at anticompetitive conduct, yes.

CHAIR—And if there were perfect competition you would not exist because you would not need to be there?

Mr Spier—That is probably right, yes.

CHAIR—Not that I want to do you out of a job.

Senator CONROY—Success in your industry is putting yourself out of a job?

Mr Spier—That is right.

CHAIR—How many staff will the ACCC have committed to price surveillance for the GST?

Mr Spier—As you can probably imagine, it is still very early days and we are not sure exactly what the resource needs will be, but I can tell you at the moment the funding specifically aimed at the GST—I stress that because there is another issue—will be for 40.

CHAIR—Forty staff?

Mr Spier—Forty staff. Also, however, as with all our work, if a particular issue blows up or if more staff are needed it is an issue of priorities and staff will simply be taken from elsewhere to work on the GST. But the 40 is the new staff.

CHAIR—And what will these 40 staff do? How will they do their job? For example, the government constantly tells us that under its package some wholesale sales taxes will be cut and a 10 per cent GST will be imposed, the net effect being a price reduction. How will your 40 staff, for the hundreds and thousands of Australian businesses, ensure that that net reduction in price is passed on to the consumer?

Mr Spier—As I said earlier, it is early days. But, based on the legislation that is currently in the House, one of the most critical things for us to do and that we have to do in the next couple of months is to prepare guidelines for industry, with industry, and then very much to educate industry as to what we think should happen. As I am sure you are coming around to say, there is no way that we can police every business—that is not what we can do or what we do now in our general role—but we can give explicit guidance to business, work with business, take a number of cases to make the point where the point needs to be made.

The powers in the bill are very interesting. We can say to a business, ‘We think your price is unreasonable,’ and if the business says, ‘Well, we don’t care,’ our view is *prima facie* evidence in court. Those powers add to our normal persuasion powers a great deal. We have a very high profile chairman, as I am sure you would be aware.

CHAIR—We see him often enough.

Senator CONROY—The human deterrent!

Mr Spier—Exactly, and one of many in terms of our armoury. We will be doing, as we do in so many areas, a mix of education and the big stick. There will be two types of guidelines. There will be some overarching guidelines to set general guidelines for industry and then there will have to be a number of industry-specific guidelines because there are certain industries that have particular issues.

CHAIR—So the 40 staff are going to educate 500,000 businesses in Australia—

Mr Spier—We do it now.

CHAIR—to ensure that where there are savings, those savings go to the consumer and that they are not held up for any time by that company. Is that correct?

Mr Spier—Yes.

CHAIR—Can you say with your hand on your heart that you think businesses, faced with your education campaign, will voluntarily pass on 100 per cent of the savings and not just sit on them for some of the time, or pass on 80 per cent or a bit less?

Mr Spier—At this point in time I honestly do not know, but we are a very successful enforcement agency. There are \$10 million penalties. We will certainly be doing our best to ensure that the savings are passed on.

CHAIR—I am sure you will do your best. Would you concede also that in many companies, particularly bigger companies, the capacity to hide costs or shift costs around to mask the retention of the tax reduction is quite profound? Companies can do that—they are smart enough to do it—and they can obfuscate or obstruct your inquiries.

Mr Spier—I understand what you are saying, but we will be taking a lot of action to make sure that that does not happen. In a lot of our work—as someone said earlier—our informants, our monitors, are the marketplace. In this area of GST there is going to be 18 million monitors. People will tell us a great deal, and we have the power to get information which we will use. We will be looking at a number of very important industries, particularly those where there are to be price reductions.

CHAIR—That presumes the whole 18 million of us know, for each item of good or service, what the deduction should be.

Mr Spier—Not each item, but a lot of people will know about particular items.

CHAIR—About all of them?

Mr Spier—No, I am sure not every single item.

CHAIR—And know how much they should come down?

Mr Spier—You would be surprised at what ex-employees know.

CHAIR—Okay. I will finish my questions there.

Senator FERGUSON—The chairman and others have talked about real world experience, but real world evidence that is currently available in the economy shows that price levels have been stable for a considerable time now. Does the ACCC have any view about the tax package and whether it is likely to induce any shift in behaviour with respect to competition and pricing?

Mr Spier—We are not the experts who can make that judgment. Certainly, we are not looking at this on the basis of major changes.

Senator FERGUSON—In other words, you think that the competition that exists currently is likely to continue after the introduction of a new tax package.

Mr Spier—Yes.

Senator FERGUSON—And that continued competition is going to dampen the ability of people not to pass on price reductions?

Mr Spier—In many markets, yes.

Senator FERGUSON—Currently, evidence available shows that increased costs of imports across the docks are not translating into higher consumer prices. In fact, the rise and fall of the dollar and other issues that have caused imports to increase in cost have not led to higher consumer prices. Do you see competition continuing to put pressure on margins and so keep price pressures on after the tax package commences?

Mr Spier—Again, perhaps that should be asked of the particular industries. Certainly, we do not see the tax changes as causing any changes. In fact, in the past, one of our predecessors—the Prices Surveillance Authority—did some work on exchange rates being passed through and there was a lot that was absorbed.

Senator FERGUSON—Absorbed?

Mr Spier—Yes.

Senator MURRAY—Would it be true, as a generalisation, that your agency relies very much on deterrence? In other words, by finding somebody guilty of something and publicising it you make sure that others think twice about doing the same thing. Is that correct?

Mr Spier—It is a combination of educating people about what we call our compliance programs. But they are not much use unless there is a stick there and the stick is used from time to time fairly effectively. It is a combination. It is not just the stick, it also very much involves education.

Senator MURRAY—I know it is early days because you need to consider these things more fully, but is one of your tactics likely to be to identify target industries first up and to go hard into them early on just to make sure the message gets out quickly?

Mr Spier—That is almost certainly the case. Clearly, there are some areas where the issue of price reductions is a more acute issue, and those areas will be a priority.

Senator MURRAY—Yes. There are maybe four areas of main price reduction that are anticipated. The first is the loss of the wholesale sales tax; the second is the loss of financial duties, the FIDS and BADS; the third is the loss of stamp duties as inputs; and the fourth is probably the petrol excise and all of that. Then, of course, we have the addition of GST.

This committee has spent a lot of time discussing the pass through effects as to when things will happen, and also the accounting practices of companies and how they deal with these issues. Our assumption is that the wholesale sales tax and the GST, as large and very visible items, will be relatively easy to identify and react to. But I would doubt that any

company, except as a general mass, would ever isolate the FID and BAD figures, for instance. With regard to stamp duty areas, those are what are known as lumpy expenditure, they only occur occasionally and only have price influences further on.

Are you going to issue some kind of guidelines, probably set in both legal and accounting terms, as to how you review the various elements of pricing and what regard you will have? If you have been set up to prevent profiteering and somebody inadvertently, unknowingly, or because of an incapacity, does not pass on FID and BAD reductions, it would be pretty unfair to go chasing after them.

Mr Spier—Sure. As you said, it is early days but we will have to issue guidelines. What exactly will be in those guidelines has not been settled. We have engaged a consultant to help us on those very issues, but the particular issues you raise are very much in mind. The current thinking is that the guidelines will have to cover those kinds of issues.

Senator MURRAY—A farmers' group before us in the hearings so far, during evidence, made a slip of the tongue—

Mr Spier—I saw that.

Senator MURRAY—They indicated that they might well take a bit of margin on the way through this thing. And that is a natural way for business people to think, quite frankly. Given the interchange we have already had with you on the earlier questions, do you think it is realistic to expect certain sectors, particularly those under pressure, not to take a bit of extra margin if they can?

Mr Spier—We can understand the natural intention, but clearly the law which we will administer is at odds with that.

Senator CONROY—I refer to the bill dealing with the amendment for you. Is the bill intended to give the ACCC power to monitor the price changes as a result of the diesel fuel credit scheme?

Mr Spier—We have the power to monitor prices changes, full stop.

Senator CONROY—I understand that there are a number of regulations that are needed in some areas.

Mr Spier—At the moment we just have the bill.

Senator CONROY—Could you point to the provision that gives you the power to monitor, say, the diesel fuel credit scheme?

Mr Spier—It gives us the power to monitor, full stop. Section 75AJ is all about assessing the general effect of the new tax system changes. Someone else, perhaps Treasury, may have to say whether that includes that, but I would have thought that it was any changes that come out of the new tax system, ANTS. Certainly we would take that as a fairly broad monitoring role.

Senator CONROY—Do you want to get some extra advice?

Mr Spier—Perhaps we can take that on notice.

Senator CONROY—Sure, thanks. The explanatory memorandum to the bill states that \$27 million will be allocated over three years to the ACCC for it to perform its extra functions. What is the yearly allocation of funds within those three years?

Mr Spier—It varies, because there are some lumpy bits, but the yearly allocation is \$11 million in 1999-2000, in 2000-01 it is \$9 million and then in 2001-02 it is \$6 million—with bits and pieces.

Senator CONROY—I want to follow up on one of Senator Murray's questions to do with that lumpy expenditure question. Suppose I buy all my computers or all my office equipment pre-GST coming in and on 1 July I am meant to pass on savings from all those different taxes—WST and everything that is going. I am not required to pass on a notional saving that I would make if I bought a new computer on 2 July. Is that a fair description? You are looking to enforce on people the requirement to pass on savings.

Mr Spier—That is right.

Senator CONROY—But I am not making a saving because I am still using my existing equipment, so I am not actually getting the benefit of any of those reductions. You are not requiring me to pass on a notional saving as if that were new equipment bought on 1 July?

Mr Spier—That is not my understanding.

Senator CONROY—I just wanted to make sure that is right. In terms of an assumption that I am a business and I am able to pass on the savings 100 per cent on day one, I am only required to pass on the saving once I, if you like, make the saving. It may be two or three years before I purchase a new computer, so it may be two or three years down the track before I make the real saving in that flow-on.

Mr Spier—I will take that one on notice. It is still early days for us on these issues; it really is.

Senator CONROY—Yes. That is a lumpy question. Suppose I comply with the law on 1 July; I pass on all the savings. You come in and give me the tick—I know you do not have an audit process, but let us say I phone you and say, 'Come and check that I have done all the right things. I have passed on all the savings,' and you give me the tick. I then decide I want to increase my profit margin. Let us say I am making a 10 per cent return and I say I want to make an 11 per cent return the next day. You have come in and given me the tick, I have passed on all the savings, but I decide I now want to make an increase in profit—not necessarily using—

Mr Spier—No.

Senator CONROY—How do you know that I am not profiteering?

Mr Spier—We don't, I suppose, but that is one of the things that, firstly, the guidelines will have to cover and, secondly, we will talking about with the particular industry that says it.

Senator CONROY—How can you possibly make that assumption? I am trying to understand how you are going to stop me.

Mr Spier—I expect the answer is that we can't stop you. If it is based on the market-place, if you are able to increase your margin, it will be no different now.

Senator CONROY—So if I am in a situation where you have come and given me the tick, I have complied with the legislation, I have avoided the \$10 million, you are completely happy, and I just decide I want to make an increased margin the next day, then I can put my price up?

Mr Spier—If it is based on the market conditions and it is exactly the same as now, yes.

CHAIR—Senator Sherry.

Senator MURRAY—Senator Conroy, are you forecasting a lot of margin movements on 1 July?

Senator CONROY—I am forecasting a lot of margin movements on 2 July.

CHAIR—Order! Senator Sherry.

Senator SHERRY—Just to follow through on this issue that Senator Conroy raised and you were responding to: in reality, wouldn't it be very difficult to identify, in a range of businesses, the difference between a legitimate attempt to maximise profit and an attempt not to pass on cost reductions as a consequence of the various taxes?

Mr Spier—I can only agree with that. The law talks about the unreasonably high price not being attributable to all or any of the following: the supplier's costs, the supply and demand conditions or any other relevant matter. Clearly, that will be an issue for us and our guidelines will have to cover those things very explicitly.

Senator SHERRY—You have said that the guidelines you have mentioned will be developed in consultation with industry.

Mr Spier—Yes.

Senator SHERRY—How do you bind industry to—

Mr Spier—You don't, but those guidelines will have status in court. So, if industry says, 'We are not going to follow those guidelines,' and we regard what they are doing as amounting to charging an unreasonably high price, we can take the matter to court and those guidelines have status there.

Senator SHERRY—Even if they are not binding? Certainly they provide some support in a legal action.

Mr Spier—Sure.

Senator SHERRY—But it must be very difficult to come to a judgment about the extent to which following those guidelines can be required. There might only be half a per cent increase in price that you may regard as unreasonable, but it is very difficult to enforce.

Mr Spier—It is, but the Trade Practices Act as it stands has a lot of concepts dealing with business that are not black and white. ‘Anticompetitive conduct’ is not black and white, all those sorts of things. We issue guidelines and there have been some court judgments over the years. Industry does, largely, from our experience, abide by our guidelines. These are a bit different; these are tougher than usual, because the court can take notice of them, whereas the court can totally ignore normal guidelines that we do.

Senator SHERRY—One last question: let us assume that you are satisfied that there has been a reduction in price or that component of the price as a consequence of the abolition of the wholesale sales tax and the various other FIDs, BADs and state stamp duty—and goodness knows how you will be examining all businesses in respect of all those. Anyway, let us assume that happens. What attitude are you going to take where a business says, ‘I have got extra collection costs as a result of the GST because of additional administrative workload’? There is an additional cost and it is identified in the package as \$2 billion on an economy-wide scale. What attitude will you take to a business that says, ‘I have got additional costs and I intend to cover those costs of collection?’

Mr Spier—The honest answer at the moment is that we do not know. That is part of the issues that we have to think of in our guidelines. It may be covered by any other relevant matter that is currently in the act.

Senator SHERRY—It would seem reasonable to me that it is quite legitimate for a business in terms of that legislation and in terms of normal business practice to seek to recover the cost of the administrative burden on that business of compliance costs.

Mr Spier—I can understand the issue, Senator. All I can say is that that will have to be considered. There is no answer at the moment, I am afraid.

Senator FERGUSON—Mr Spier, Senator Conroy raised the spectre of someone wanting to increase their profit margin: what is stopping them from increasing their profit margin today?

Mr Spier—The market. It depends what they can do.

Senator FERGUSON—What will stop them increasing their profit margin after the introduction of the tax package?

Mr Spier—The market. That is why I said that if they can do it now, it is probably the same thing.

Senator FERGUSON—The same conditions will apply?

Mr Spier—Depending on the market at the point in time.

Senator CONROY—Do you think the information is going to be as perfect after the packaging.

Senator FERGUSON—I think I have the call, Senator Conroy. I thought Senator Conroy would be getting hoarse after his efforts this morning.

CHAIR—You have, Senator Ferguson. Please proceed.

Senator FERGUSON—Mr Spier, you would be aware that the wholesale sales tax has been reduced from 32 per cent to 22 per cent as a transitional measure once the GST legislation receives royal assent. This applies to goods such as TVs, videos and lots of other goods. In these industries, in these goods, which are currently in a very competitive market, do you see any problems at all with price reductions being passed on with the introduction of that transitional measure?

Mr Spier—I cannot say, ‘No problems at all’ because we do not really know. I can make two points: one is that we will be giving special attention at that point in time; and, second, yes, I think those markets are quite competitive.

Senator FERGUSON—And that eventually determines what the price will be and what the profit margin will be?

Mr Spier—Yes.

Senator FERGUSON—And after the introduction of the tax package it will still be those competitive forces which determine profit margins?

Mr Spier—Sure.

Senator FERGUSON—You said earlier that you cannot police every business, and I understand that. Isn’t it a fact that the very presence of the powers of the ACCC and the fact that you exist and people are aware of your powers are a considerable inducement for people not to try and do the wrong thing in relation to pricing?

Mr Spier—The obvious answer from us is yes. I think it is right, too. We do have a considerable market presence. We have a reputation of being fairly forceful and being successful. The funding includes a reasonable amount of money for public campaigns as part of our compliance role, with the big stick in the background.

Senator FERGUSON—In the current climate under the current system, do you find that you have competitors or industries that actually report to you breaches of anticompetitive—

Mr Spier—Constantly. That is our main source of information. The consumer in the street may have some inkling and say, ‘All the prices are the same elsewhere’ or ‘Things are

happening' but that may be a perfect market on the one hand; on the other hand, it may be collusion. It is the competitors who know what is going on.

Senator FERGUSON—So it is fair to presume that competitors will still report any breaches of the legislation to protect their own competitive position.

Mr Spier—I assume that. That is what happens now.

Senator FERGUSON—In conclusion, the ACCC does not envisage any different behaviour or behavioural patterns of industries post the introduction of a taxation reform system from what it is today?

Mr Spier—No.

Senator CONROY—We were discussing earlier the powers granted to you under the bill. I have the bill in front of me and on page 5 it says:

75AU price exploitation in relation to new tax system changes.

On the previous page, page 4, there is a definition of new tax system changes.

Mr Spier—Yes.

Senator CONROY—That definition covers the WST and the imposition of GST—that is really about all. In terms of this legislation empowering you to look at these other issues, it is not as all encompassing as you perhaps thought. It is quite specifically related to the definitions in the bill?

Mr Spier—Yes.

Senator CONROY—For instance, covering the diesel fuel credit scheme, which is a credit rather than the imposition of a tax.

Mr Spier—That is very much a matter for the government, and in terms of the legislation I draw your attention to (d) in that under the definition of new tax system. That may accommodate what you are asking.

Senator CONROY—No. I think I made the point earlier that there are regulations going to be required. I was saying that, in terms of what you have before you right now, the power to look at all these industries that you believed to be there is not really there. It will require the government to pass regulations. We have to take it on trust; it is not outlined in this bill. This is not a question of trusting you. We have to take on trust from the government—

Mr Spier—I take your point.

Senator CONROY—That they are going to give you the power to look at all these other things—the states, for instance.

Mr Spier—Certainly in terms of diesel it has been clear. Our understanding is, yes, that is one of the areas—

Senator CONROY—The Treasurer says a lot of things publicly. He says he has modelled the tax package, but we do not always take him on trust.

CHAIR—Please get to the question.

Senator CONROY—That was a large part of it. I wanted to clarify that situation in terms of the actual legislation and the powers this piece of legislation actually passes to you.

Secondly, you do not have the power to ensure that I only put up my price by 10 per cent on, say, an individual good? Let us say it is not WST or anything—it is food, a lettuce. You do not have the power to look at my price and say that I have put it up by 11 per cent. What you will be looking at is not whether I put up my price for a lettuce by more than 10 per cent. There is no constraint to keep me to 10 per cent in the legislation.

Mr Spier—No. If it is any sort of pricing it is related to the tax changes. If they put it up to 50 per cent saying it is due to the GST—

Senator CONROY—If the market can bear me putting up my prices by more than 10 per cent on a good that has not previously been WSTed, or any of the other things that the market can bear, then I can get away with it?

Mr Spier—If there is no tax on it at the moment.

Senator CONROY—Yes.

Mr Spier—Is there any such product?

Senator CONROY—Fresh food.

Mr Spier—There is no tax at all.

Senator CONROY—That is the argument. The Democrats will take you through that over hours. If I am a grocer in a strip shopping centre somewhere, and I have the GST at 10 per cent but I want to put the lettuce up 11 per cent or 12 per cent, that does not fall within your capacity to deal with either, does it?

Mr Spier—That is not my understanding.

Senator CONROY—Do you think it is?

Mr Spier—What if there are some savings, in terms of the inputs?

Senator CONROY—I have compliance costs.

Mr Spier—Could I come back on that one? That is more a Treasury issue than ours, in terms of the actual tax.

Senator CONROY—No. It is a question of whether you are going to be empowered, under this legislation, to come and knock on my door to make sure I am not profiteering.

Mr Spier—We are probably empowered to look at everyone, but whether we can take action against you is something else.

CHAIR—I have one final question. You sparked my imagination when you talked about how far back in time you can go with your act. The Whitlam government did an across-the-board tariff cut—I think they slashed tariffs uniformly by 25 per cent—which reduced prices to consumers if that cut was passed on. We have had evidence here from ex-Treasury officials that it was not passed on. It was comprehensively absorbed by industry. Have you looked at the behaviour of the market in that example at all?

Mr Spier—A little. There was not all that much in terms of documentation. There was, of course, no law like this.

CHAIR—But the point is that, left to itself, the market did not pass on those cuts.

Mr Spier—It is hard to judge. It was a long time ago. It is a very different market.

CHAIR—But you confirm that they were not substantially passed on?

Mr Spier—I cannot judge now. We looked at the mix. What we did look at was when there were exchange rate movements and whether they were absorbed. They were largely absorbed, and we have done work on that, but we have not done any work at all on those tariff changes of many years ago. There is not much written; it is all anecdotal.

CHAIR—We have the evidence of a former Treasury official on it. He, interestingly, spoke on behalf of St Vincent de Paul with some feeling about the matter.

Mr Spier—Yes, I saw the evidence.

CHAIR—Just on this question of market forces, market forces presume perfect competition and that, therefore, these changes will be passed on. But just in comparing prices in regional Australia to those in urban Australia, there are wide disparities which do not relate to the cost of transport. They relate to other margins. Fresh fruit and vegetables are a good example of all sorts of market prices, some of which are absorbed and some of which are not. The ability to absorb a profit or take a profit relates to the amount of competition. I think your evidence at the beginning of this hearing was that we do not have perfect competition in this country and that you have 40 staff to regulate about half a million businesses and their role will be education and not policing.

Mr Spier—Both, but it is education first and with the stick there the whole time. Education is going to be one of the most important things that we have to do. One of the first things we have to do is know what law and what things they need to abide by.

CHAIR—One could ask: are 40 staff enough to just deal with what might be anticipated to be a fairly large flow of people dobbing in companies that are not passing on the prices?

Mr Spier—Senator, as I indicated earlier, I do not know whether it is enough. It will be augmented by other staff, as need be, from the commission. If we feel it is nowhere enough, that is a matter we can take up with the government.

CHAIR—Was the ACCC consulted in the drawing up of the bills?

Mr Spier—Yes, it was.

CHAIR—And did you offer advice on how best to police these issues?

Mr Spier—Some. But we are looking at the bill and how that is to operate and particularly issues where we can issue a notice. If that is not abided by, we can go to court, but that notice is prima facie evidence.

CHAIR—Okay. One more bite of the cherry; we are running out of time.

Senator CONROY—How much will the education campaign you mentioned be?

Mr Spier—Around \$10 million.

Senator CONROY—And who is that for: consumers or industry?

Mr Spier—Mainly industry and some consumers as well. It is particularly to publicise our guidelines and to get out into industry in terms of helping them to comply, because the issue has also been raised that it is very easy to just make mistakes too in terms of industry. There are inadvertent breaches as well where we have to make sure that people know what they are supposed to do.

Senator CONROY—And you plan to educate consumers?

Mr Spier—That as well.

Senator CONROY—You said the majority of that \$10 million—

Mr Spier—The people that this legislation targets are really business.

Senator SHERRY—Where will the 40 additional staff you referred to be located?

Mr Spier—Mainly in Canberra, Sydney and Melbourne, but with staff in each of our regional offices as well, which includes Hobart. We will have staff on the ground in each regional office as well. They are small offices. For example, Hobart has four staff at the moment. This is for a three-year period, so they are staff who will be available for two or three years, or perhaps around the peak times.

Senator CONROY—Is that \$10 million part of the \$27 million?

Mr Spier—Yes.

Senator CONROY—It was contained within the \$27 million?

Mr Spier—Yes.

CHAIR—Are we all done? I think we can end your grilling, Mr Spier. Thank you very much for giving evidence.

Mr Spier—I will be back again soon.

CHAIR—You will be back again shortly, but we will talk to you in another guise. I declare closed this meeting of the Select Committee on a New Tax System.

Committee adjourned at 1.25 p.m.