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COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Reference: Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010

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WITNESSES

SENATE COMMUNITY AFFAIRS

LEGISLATION COMMITTEE

Monday, 18 April 2011

Members: Senator Moore (Chair), Senator Siewert (Deputy Chair) and Senators Adams, Boyce, Carol Brown and Furner

Participating members: Senators Abetz, Back, Barnett, Bernardi, Bilyk, Birmingham, Bishop, Boswell, Brandis, Bob Brown, Bushby, Cameron, Cash, Colbeck, Coonan, Cormann, Crossin, Eggleston, Faulkner, Ferguson, Fierravanti-Wells, Fielding, Fifield, Fisher, Forshaw, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Ludlam, Macdonald, McEwen, McGauran, Marshall, Mason, Milne, Minchin, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Stephens, Sterle, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Boyce, Colbeck, Siewert and Xenophon

Terms of reference for the inquiry:

To inquire into and report on: Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010

Subcommittee met at 2.18 pm

ACTING CHAIR (Senator Siewert)—I declare open this public hearing of the Senate Community Affairs Legislation Committee and welcome everyone who is present today. The committee is inquiring into Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010. Today is the committee's first public hearing for this inquiry.

[2.19 pm]

GAY, Ms Catherine, Acting Assistant Secretary, Research, Regulation and Food Branch, Department of Health and Ageing

MAY, Mr Peter, General Manager, Legal and Regulatory Affairs, Food Standards Australia New Zealand

McCUTCHEON, Mr Steve, Chief Executive Officer, Food Standards Australia New Zealand

ACTING CHAIR—Welcome. I understand that information on parliamentary privilege and the protection of witnesses and evidence has been provided to you.

Ms Gay—Yes.

ACTING CHAIR—I invite you to make an opening statement and then we will ask you some questions.

Mr McCutcheon—I have previously made an opening statement in relation to the Foods Standards Amendment (Truth in Labelling—Palm Oil) Bill 2010. In the interests of time, I will not repeat all that I had said in that statement about the place that Food Standards Australia New Zealand has in the food regulatory system. The substance of my comments was that FSANZ has a tightly defined role within a food regulation system. It exists to provide safe food controls for the purpose of protecting public health and safety. FSANZ's principal role in the system is to instil confidence in the quality and safety of the food supply chain.

The Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010 seeks to establish a standard in a manner that is inconsistent with interjurisdictional arrangements and for a purpose that is unrelated to food safety. In particular the bill removes any consideration of public health and safety or economic impact from the process of establishing a GM labelling food standard.

That change in procedure has a potential to compromise public confidence in the entire food regulatory system, which is founded on the proposition that food standards will be made with the protection of public health and safety as the paramount consideration and be based on the best available scientific evidence. It is also inconsistent with the current statutory and administrative requirement that FSANZ consider the regulatory impacts. This includes consideration of all the costs and benefits of a proposed standard on consumers, industry and government.

FSANZ does not approve any food, including GM food, that is unsafe. FSANZ has a track record of transparency and caution in the area of GM food approvals. For example, FSANZ has reviewed the scientific evidence when new claims have been made about the safety of previously approved GM ingredients.

It is already mandatory for GM foods containing novel DNA or protein to be identified on food labels in Australia and New Zealand. GM foods are labelled to help consumers make an informed choice about the food they buy. They are not labelled for safety or nutritional information reasons, as only GM foods that have been assessed by FSANZ to be safe are approved for sale.

The GM labelling requirements which are contained in standard 1.5.2 became law in December 2001. The decision to require labelling for a non-safety related purpose was made by the ministerial council at a time prior to the amendment of the food standards legislation to establish food safety as a primary object of the act.

The current GM labelling standard strikes a balance between the identified need to inform consumers about the presence of certain ingredients in foods, the capacity to measure with a high degree of certainty the presence of those ingredients and the costs and benefits of doing so.

GM foods and ingredients, including food additives and processing aids from GM sources, must be identified on labels with the words 'genetically modified' if novel DNA and/or novel protein from an approved GM variety is present in the final food. GM foods must also be labelled if they have altered characteristics. For example, if a GM food has an increased level of a particular nutrient, such as a vitamin, or has to be cooked or prepared in a different way compared to the conventional food, then this also needs to be stated on the label.

Labelling is also required when genetic modifications have resulted in an altered characteristic in the GM food such as a change in the nutritional components in the food compared with the non-GM form. Foods that do not contain novel DNA or protein do not have to be labelled, for example, highly refined or processed food such as vegetable oils or sugars. Labelling is also not required where there is more than one per cent per ingredient of an approved GM food unintentionally present in a non-GM food. This means labelling is not required where a manufacturer generally orders non-GM ingredients but finds that up to one per cent of an

approved GM ingredient is accidentally mixed with non-GM ingredients. It is important to permit this threshold for accidental presence as the cost of ensuring total exclusion would be out of proportion to any perceivable risk, given the absence of a health safety risk. The use of a threshold is consistent with approaches internationally, including the European Union. There is a zero tolerance for the presence of an unapproved GM ingredient in the food supply even if it is unintentional. This is because unapproved GM ingredients have not been assessed as safe for human consumption.

GM-free and non-GM claims are made voluntarily by food manufacturers and are subject to relevant fair trading laws in Australia and New Zealand which prohibit representations about food that are more likely to be false, misleading or deceptive. FSANZ has not made standards in relation to marketing claims such as GM-free or non-GM.

The bill provides that the GM labelling standard is to be developed without regard to either section 18 of the FSANZ Act, which prescribes matters that FSANZ must consider or have regard to when making or varying a food standard or part three, which prescribes the procedures for developing and approving a standard of procedures for ministerial oversight.

The requirement of the bill that the proposed standard may be made without regard to any of the matters that FSANZ is required to consider under its legislation has the potential to compromise the confidence that consumers can have in food standards as a consequence of the science based approach to regulation that underpins the legislation and the intergovernmental arrangements that support that legislation.

ACTING CHAIR—Ms Gay, do you want to make an opening statement?

Ms Gay—Unfortunately, I will have to make the same opening statement that I made to the previous bill. The Commonwealth has limited power under the constitution in the food space. Food laws and their implementation and enforcement are mainly the responsibility of state and territory governments. However, the three levels of Australian governments have worked together over many decades in a cooperative manner to provide Australia with the benefit of consistent national food standards.

The food regulation system is also bi-national and includes the New Zealand government. The primary aim of the system is to ensure the highest standard of public health protection. While the system is transparent it is somewhat complex. Its operation is set out in a number of interrelated agreements. The Food Regulation Agreement gives effect to the commitment by the Commonwealth and state and territory governments to a cooperative national approach to food regulation within Australia.

The Australian and New Zealand governments have formalised the bi-national nature of the food regulation system via treaty. The FSANZ Act establishes Food Standards Australia New Zealand as an independent statutory authority. FSANZ is responsible for developing and maintaining the food standards that make up the Food Standards Code.

The Food Regulation Agreement also establishes the Australia New Zealand Food Regulation Ministerial Council. This ministerial council has a very important role in the food regulatory system. The food standards that are devolved by FSANZ do not have legal effect of themselves. The ministerial council has an oversight role of the draft food standards developed by FSANZ because it is the ministers from the states and territories that give the legal effect to these food standards.

As part of the Food Regulation Agreement, states and territories have agreed to adopt or incorporate into the state and territory laws the Food Standards Code. Enforcement of the food standards is undertaken by the states and territory governments and in some cases by local government. The Commonwealth has no role in enforcing the food standards except in regard to foods at the border through the Australian Quarantine and Inspection Service. The amendments proposed in this bill are inconsistent with the cooperative process for developing and reviewing food standards that are established under the Food Regulation Agreement with the states and territories, the treaty with New Zealand and the FSANZ Act. It is unclear whether any standards resulting from the provision of this bill could or would be enforced.

ACTING CHAIR—I would like to ask for some clarification on some comments that you made, Mr McCutcheon. My question is about this issue of the one per cent of approved GM food unintentionally present in the non-GM food. We do not test for the one per cent—is that correct? Is any testing done of the one per cent?

Mr McCutcheon—Any testing that would be done would be done by the enforcement agencies, the states and territories, and I understand that does happen. Clearly, if they found something in breach of the one per

cent then they would be required to take enforcement action, but for anything below they are not required to take enforcement action.

ACTING CHAIR—Let us go to the most current example, which was the baby formula. There was one that Greenpeace tested and found GM present in the baby formula. Was anybody aware that was there before they did that testing?

Mr McCutcheon—I am not aware, but again we are not in the enforcement business. I am not aware through our consultations with the states and territories that this has been raised. Although I understand when the reporting came out at the time that this had not been the first time that positive detections at trace levels had been found.

ACTING CHAIR—My point is with regard to this thing about approved and unapproved GM. At that stage nobody had heard before that that particular baby product had GM present, so how do we know if it approved or unapproved? Isn't that sort of a little bit of a nonsense to say 'approved' and 'unapproved' if it is less than one per cent? Testing is not done so it is okay to have an approved GM in there but not an unapproved GM, but we do not know if it is there anyway.

Mr McCutcheon—I think the first thing is the testing that is done can do two things. It can firstly identify whether the GM ingredients are approved or not approved. Secondly, if they find approved GM ingredients and the product is not labelled but the levels are above the one per cent, then clearly there would be some enforcement action needed. If it were below one per cent and the product was not labelled then it would be in compliance. If the second stage was that they found an unapproved GM in that test, whether it is above or below the one per cent is irrelevant; it is not approved for sale on the Australian market so it would out of compliance.

ACTING CHAIR—But if no testing is done routinely which, as I understand it, you cannot answer because I have to ask that of the states, not AQIS.

Mr McCutcheon—The states, yes.

ACTING CHAIR—AQIS does the testing.

Ms Gay—No, the states and territories are responsible for all enforcement within the states, so FSANZ really will not be able to answer those questions for you.

ACTING CHAIR—AQIS does the testing but the states are responsible for the enforcement?

Mr McCutcheon—There are two elements to this. One is that the only testing AQIS would do is at the border in respect of an imported product. I cannot comment on what testing they do but they are the border agency required to do the testing. Secondly, within Australia—and this can apply to either an imported product or a domestically produced product—the states and territories have that role for enforcing compliance with the standard. In fact, under the implementation subcommittee, under the ministerial council, they have actually developed a national compliance and monitoring strategy for GM foods so that sets out the detail of how they would go about enforcing compliance with that standard.

ACTING CHAIR—So the baby formula obviously had not been tested?

Mr McCutcheon—I do not know whether it had not been tested. We do not sort of keep a check on what the states and territories are doing in terms of testing. But off the top of my head I know the New South Wales food authority is quite rigorous around the enforcement of the code, so I would be surprised if it had not done any testing.

Senator COLBECK—What is the trigger for testing at the border?

Mr McCutcheon—Again, I am not going to talk in detail about AQIS because that is not my agency but in short—

Senator COLBECK—But there is a relationship between AQIS and FSANZ—isn't there?

Mr McCutcheon—The relationship is we provide assessment advice to AQIS on risk foods, so there are a number of foods that are subject to 100 per cent testing at the border based on the advice that we have given AQIS over the years, and they are things like some seafood products, some dairy products and those sorts of things. Everything else comes in under the random testing scheme and that is subject to the five per cent testing arrangements that AQIS runs.

Senator COLBECK—But is there not, say for example, a list of pesticides and other things that are tested

Mr McCutcheon—No. AQIS would be checking imports against the standards in the Food Standards Code, so they do not need any special advice or guidance from us except for those high risk foods that we provide specific advice on to them and they put them into a separate category. But as to everything else, basically AQIS's job is monitoring compliance with the Australia New Zealand Food Standards Code.

Senator COLBECK—So, for example, when they test for—and I think the number is 49—chemicals—

Mr McCutcheon—That is correct.

Senator COLBECK—those 49 chemicals are listed in the Food Standards Code.

Mr McCutcheon—No, they are not listed in the Food Standards Code. That is a list that AQIS has.

Senator COLBECK—We are in a circular argument here because we have this argument about who provides who with the list and AQIS will blame you and I am not sure if I am hearing right, but I am pretty sure that you are blaming AQIS.

Mr McCutcheon—No, I am not blaming anyone. I am just trying to describe the different roles we have. The 49 chemical screen is the screen they use for the random monitoring program. AQIS developed that I think around about 2007, off the top of my head. They did that in consultation with FSANZ at the time, but it is their list. That list is currently under review between our two agencies and I expect that a new list will come out at some stage soon. For all the chemicals on that list there would be in our Food Standards Code either maximum residue limits for those chemicals or, if there are not, then when AQIS do their check at the border through the random screen and find a detection then it would automatically be non-compliant with the code.

Senator COLBECK—I understand that. If we are talking about GM then in that circumstance, if at the border testing for a product that is not GM approved—as you say, it is done in the five per cent range so it would be five per cent of consignments and there is a testing regime that is done on that. But they would test each of the commodities and if they knew that there was a potential for it, how does the testing—

Mr McCutcheon—I cannot answer your question, I am sorry. I think that is probably something that AQIS would be able to describe. I am sorry to bounce you around between the two agencies but—

ACTING CHAIR—We will get there one day. The question then is who does the list, though. Who gives the list to AQIS of what is approved? How do they know what is approved?

Mr McCutcheon—Everything that is in the Food Standards Code is approved, so that is what they work from.

ACTING CHAIR—So they use the Food Standards Code?

Mr McCutcheon—Yes.

Senator XENOPHON—We have discussed this matter before, I think on 20 October during estimates last year. How is the one per cent threshold determined as a threshold issue? Why is anything below one per cent acceptable or anything above one per cent not acceptable?

Mr McCutcheon—That goes back to I guess when this standard was originally developed and at that time one per cent was considered to be the threshold where once you started going below one per cent you could start getting into areas of uncertainty around the results. So if you—

Senator XENOPHON—How so? Is that because it cannot be measured? Surely it can be measured below one per cent?

Mr McCutcheon—I think the experience we had with the testing of the GM soy based infant formula, for example, where we had one laboratory find no traces of GM material and the other laboratory finding some detections at very low levels, 0.1 to 0.2 per cent, is a good example of the uncertainties that can happen with the testing methodologies—

Senator BOYCE—They were both NATA laboratories, too.

Mr McCutcheon—They were both NATA accredited laboratories, yes. But just to continue on answering Senator Xenophon's question, the one per cent is not something that in a sense is uniquely Australian. If you look at the European Union for example, they have a threshold that applies there of 0.9 per cent, so it is 0.1 per cent less than ours. Japan, from memory, has some very stringent approaches to food safety—not Japan, I am sorry, Korea. They have an adventitious presence threshold set at three per cent for bulk produce. This area of whether it is one per cent, 0.9 per cent or three per cent, individual countries make their own decisions, but it is all around measurement certainty or uncertainty.

Senator XENOPHON—But given FSANZ's role as you have indicated is one of food safety, at what level do you say something just below one per cent does not pose a risk to consumers but anything over one per cent does?

Mr McCutcheon—If it is an approved GM ingredient, whether it is above or below the one per cent threshold is not an issue of food safety because we have approved it for sale on the Australian market and it is deemed to be safe. If it is an unapproved GM ingredient, again whether it is above or below the one per cent, it would be out of compliance and it would need a safety assessment to be done before it would go any further.

Senator XENOPHON—What do you mean when you say it is 'deemed' to be safe?

Mr McCutcheon—If we do testing and we find GM ingredients again above or below the one per cent threshold that are already approved for sale in Australia, then their safety assessment has been approved as a safe food for sale on the Australian market.

ACTING CHAIR—But the point is: how is the one per cent determined? Why is it one per cent rather than 0.5 per cent or whatever? That is the question, is it not, Senator Xenophon?

Senator XENOPHON—Yes.

Mr McCutcheon—The answer is around measurement certainty. Anything below one per cent is getting into areas where you can get variable results between laboratories, whereas once you work from one per cent and above that seems to be where you get more measurement certainty.

ACTING CHAIR—I appreciate the issue around measurement, but how do we know that one per cent is safe, two per cent is safe or zero per cent is safe? That is the point.

Mr McCutcheon—Again, if we are talking about approved GM foods, they are safe. They have been approved as safe. If we—

Senator XENOPHON—Does that mean they are safe by virtue of their approval?

Mr McCutcheon—That is correct, yes. They have undergone a safety assessment before they are allowed onto the market.

ACTING CHAIR—Can I use another example? We say atrazine is safe, or another dangerous chemical is safe; it does not make it safe just because you have said it is safe. What research or what academic papers were used et cetera to decide it is safe to approve it?

Mr McCutcheon—Every GM food that is listed in the Food Standards Code as being permitted to be sold in Australia has undergone a safety assessment and the material—

ACTING CHAIR—That is not done by you though—is it? It is done by industry.

Mr McCutcheon—The safety assessment is done by FSANZ independently. In doing that, before a company can get FSANZ to consider its application, it has got to provide quite a detailed set of data and FSANZ will independently look at that data using international guidelines as the basis for that assessment and make its own determination about whether that particular product is safe or not.

Senator XENOPHON—Further to Senator Siewert's line of questioning, does FSANZ undertake a continual literature review if there has been a further study that may indicate some concerns?

Mr McCutcheon—We continually check, particularly international developments and international research results, and usually when something comes up—in fact every time something comes up—we will have a look at that in the context of previous considerations we have had for particular applications.

Senator XENOPHON—And is the precautionary principle a fundamental tool that is used to approve something?

Mr McCutcheon—Our number one objective under the act is health and safety, so if there are any issues raised around the safety of a particular approved GM food we will investigate that, look at that study and then draw our own conclusions about whether or not there is an issue there.

Senator XENOPHON—We had a bit of a discourse on the issue of 'unintentional' on 20 October last year—what is so funny, Senator Siewert?

ACTING CHAIR—That was the latest iteration of the discussion that we have been having, that is all.

Senator XENOPHON—Sorry, one of many, I should say. Senator Siewert has been involved many more years than I have on this. At the moment the legislation talks about being unintentionally present. What are the

protocols? What are the thresholds? Because the answer that was given is that it is an enforcement issue; it is up to the state and territory jurisdictions and AQIS; is that right?

Mr McCutcheon—That is correct, yes. It is for them to interpret what 'unintentional' is.

Senator XENOPHON—I do not understand this. If you have a primary role to deal with food safety issues and there is an issue here about 'unintentionally present' to use the term in the regulations, would there not be a role for FSANZ to say: these are the protocols; these are the thresholds; these are the sorts of matters you should take into account when that defence of 'unintentionally present' can no longer be used? That is not unreasonable for FSANZ to have a role in that; is it?

Mr McCutcheon—FSANZ develops the standard and the standard in effect becomes a state or territory law. State and territory law enforcement officers make their interpretation about what 'unintentional' is. If it got to the point where there was a dispute then it would be a court of law that would rule on what that word meant.

Senator XENOPHON—You have said the states and territories have a role for enforcement—is that correct?

Mr McCutcheon—Correct. That is their role.

Senator XENOPHON—You set the standard, but the question of enforcement is one that is open to interpretation.

Ms Gay—In a recent bill that was passed in 2007 it was made categorically clear that it is not FSANZ's role to interpret the standards, that is the role of the jurisdictions as enforcement officers and, if it comes to a dispute, then it is the courts that will make that determination, not FSANZ.

Senator XENOPHON—FSANZ sets the standards.

Ms Gay—It develops the standards.

Senator XENOPHON—And those standards can be interpreted in each jurisdiction as each jurisdiction sees fit?

Mr McCutcheon—That is correct, yes.

Senator XENOPHON—Don't you see a problem with that?

Mr McCutcheon—That is the nature of the federation.

Senator COLBECK—I think—

Senator XENOPHON—I will not be verballed by Senator Colbeck.

Mr McCutcheon—It is an important issue because many stakeholders, including industry, raise this issue around how frustrating it is at times when one jurisdiction will interpret a standard in one way and the other will interpret it differently.

Senator XENOPHON—Let me put it in more neutral terms, and in terms that may not offend Senator Colbeck.

Senator COLBECK—I am not offended at all.

Senator XENOPHON—Has FSANZ considered the benefit of ensuring the uniform enforcement of the standard by having criteria in place that set out what 'unintentionally present' may mean? In other words, you set a standard pursuant to your statutory role; would your standard not be more effective if there was some relatively uniform approach to determine what 'unintentionally present' means?

Mr McCutcheon—To try to get uniformity or even consistency around that particular term would be a matter for the states and territories. As I said earlier, they have developed this national compliance and monitoring strategy for GM foods. I cannot recall if that particular issue is in there or not, but that would be a matter for them to determine, as the enforcement agencies, as to how they wish to interpret 'unintentionally present'.

Senator XENOPHON—I am just trying to understand this. It would not be inconsistent with your role to set out guidelines that the states may not be bound by, but for FSANZ to say, 'This is what we think is a reasonable interpretation of what "unintentionally present" means.'

Mr McCutcheon—That is a matter we can take up with the jurisdictions.

Senator XENOPHON—No, that is not my question. There is nothing to stop you from saying, 'Here's our guideline as to what "unintentionally present" may mean.'

Mr McCutcheon—There is nothing to stop us from being part of the process, but as Ms Gay said earlier, it is specifically excluded from our legislation; the role of FSANZ is not to provide interpretation of our standards.

Senator XENOPHON—Providing a guideline is not inconsistent, is it—a non-enforceable guideline?

Ms Gay—You are treading on a very fine line between a guideline and an interpretation.

Senator XENOPHON—I do not get it, Chair.

ACTING CHAIR—Senator Boyce.

Senator BOYCE—Mr McCutcheon, earlier you were referring to a list of where that percentage was set in other countries with 0.9 for the EU and so on. Was that a list that you were looking at and, if so, would you be able to table it?

Mr McCutcheon—It is not a list, it was a couple of dot points. I could provide the committee with information on what the thresholds are.

ACTING CHAIR—Yes.

Senator BOYCE—That would be very useful.

Mr McCutcheon—It varies a little bit because in North America, with Canada and the US, they do not have mandatory GM labelling, but if companies want to make a claim then there are certain percentages that they have to satisfy. It is not comparing apples with apples. There is a lot of variation internationally. We will try to find that information for you and pass it on to the committee.

ACTING CHAIR—Can you provide explanations like you have just done where it is not comparing apples with apples, but apples with oranges? Can you give an explanation?

Mr McCutcheon—Yes, we can do that.

Senator BOYCE—Thank you. I probably know a lot more about air quality monitoring than I do about food standards. There is absolute confidence with parts per million and perhaps less confidence as you get up to parts per trillion and the like. What is specific about GM food that means that one in 100 is a difficult measure?

Mr McCutcheon—At the time the standard was developed that was generally considered to be, on the basis of science, an appropriate level to set.

Senator BOYCE—A level that you could have confidence in replicating the tests?

Mr McCutcheon—That is correct. It was also a level where if you found GM ingredients above one per cent then clearly the science suggested at the time that it would not be unintentional and that there must be actual GM ingredients in that consignment.

Senator BOYCE—Is it more about what you can measure or what would suggest that people were not accidentally putting a teaspoon of the wrong thing in?

Mr McCutcheon—It is a combination of both. It is around the capacity or capability to measure, but also in a practical sense, a benchmark for when there would be a problem if something were above that one per cent level.

Senator BOYCE—Could you talk about what might constitute unintentional as opposed to intentional? Can you give us some examples?

Mr McCutcheon—If you have a consignment of a GM corn, say shipped in a container which is emptied out then non-GM corn is put into that container, there will still be residues of the GM material in that container.

Senator BOYCE—One would assume that there would be procedures for that.

Mr McCutcheon—That is correct. There would be procedures in place. If you are claiming that your product was GM free, then you would want to make sure that you had appropriate procedures in place to ensure that happened. Again, if you are putting something into a container that previously held GM material, putting non-GM material in there or non-GM corn in this instance, then the capability of testing these days could well pick up residues at trace levels from the previous consignment, so that is a practical consideration.

Senator BOYCE—Trace levels being significantly less than one per cent?

Mr McCutcheon—Yes, parts per million.

Senator BOYCE—I am not sure who would like to answer the next question. A number of people have suggested that there is not enough monitoring going on around the presence of GM in food and point out that the majority of states do none. Would you like to comment on that? Can you give me your views on whether there is enough done and whose job it is to ensure that there is sufficient compliance done?

Ms Gay—I will answer the last part of your question first. It is the responsibility of the states and territories to monitor those things. It is also their responsibility to ensure that sufficient research is done in that area. You will be aware that the food labelling review has mentioned monitoring, so the government is in the process of working through those recommendations and the ministerial council will consider its response in relation to what is being done during the December meeting.

Senator BOYCE—Thank you. Mr McCutcheon.

Mr McCutcheon—There is not much more I can say.

Senator BOYCE—It is a moving feast. Is it satisfactory that some states do no compliance testing at all?

Mr McCutcheon—It depends on the state's capacity in the food area. If you go to the Northern Territory, for example, they have a very small resource base up there. For them to be involved in monitoring labelling of GM I would not have thought was a priority, given other food related issues that they may have. From my observation New South Wales seems to be more active in this area of compliance and has significantly more resources to be able to do that.

Senator BOYCE—One imagines they should start charging the other states.

ACTING CHAIR—Senator Colbeck.

Senator COLBECK—Perhaps that can be dealt with in the GST review.

ACTING CHAIR—Let us not start on that because we will be here all night.

Senator COLBECK—In respect of the testing that we have just been talking about, under what circumstances can GM be grown in Australia where it is not approved to be safe? We are talking about this unintended presence in a potential product, for the purpose of labelling obviously, so what are the circumstances under which you can actually grow something? What I am trying to get to is how you might find something that is produced and grown in Australia in a product.

Mr McCutcheon—Everything that is grown in Australia requires the pre-approval of the Office of the Gene Technology Regulator.

Senator COLBECK—That is to grow and to do trials, but that is only part of an approvals process, is it not?

Mr McCutcheon—That is the approvals process for the growing of the crop, but if the proceeds of that crop were to be sold in Australia then a separate process would need to be undertaken by the company to get permission to sell that product into the Australian market.

Senator COLBECK—It looks like we will have to get the Office of the Gene Technology Regulator in as well. Is it considered safe at the stage where it has its trial?

Mr McCutcheon—It would not be considered safe in a food sense until FSANZ has done the safety assessment and come to that conclusion.

Senator COLBECK—I am trying to get to what the triggers might be to look for something. You said that New South Wales does some testing. What would the triggers be to make somebody look for a product, a contamination or a content in a circumstance where testing needs to be done? It would be better to be done in a targeted sense.

Mr McCutcheon—A couple of triggers may well be an international regulator finding an unapproved GM material or finding a GM material that might be unapproved in Australia that we needed to be watchful of. A second one might be intelligence within the international community that a particular crop or product has been grown somewhere and could find its way into the Australian food supply chain. They are a couple of obvious triggers as to whether there would be any action in Australia.

Senator COLBECK—I was looking at it more on a local level to start with. I will come to the international

have to be based around either an approved planting or a trial planting, so there would be a set of circumstances that would trigger for you the possibility that something might be occurring and therefore trigger a need for some testing.

Mr McCutcheon—I cannot answer your question. That is actually a question better put to states and territories because these trials are happening in their jurisdictions and pretty much the same portfolios would be involved in looking at both the approval process for the growing of the crop and then the subsequent approval process for the sale of the produce onto the Australian market. Off the top of my head I cannot think of a situation where there would be a trigger in a domestic sense to require some testing of product because of the potential for an unapproved GM food to be in the food supply chain.

Senator COLBECK—Let us go back in an historical sense to when there were trials of GM canola being conducted. Before you got to the process where it was not approved—but maybe I have my time frames wrong; it may have been approved by you before it had actually gone through the trial phase—I do not know—but let us just say that it had not been approved by FSANZ as safe, but it was going through its trial, there would be an obvious capacity or perhaps a probability, however limited, that it could crop up in a canola product. What I am asking is: are there potential circumstances that we keep an eye on to pick those sorts of things up?

Mr McCutcheon—Again, I think this is probably more in the area of the OGTR. My understanding is they have very strict conditions around licences and that may well include the disposal of produce or material from those crops. That is a question they would be able to answer. There is a theoretical risk that could happen.

Senator COLBECK—Are there any links between the Office of the Gene Technology Regulator and FSANZ, for example, in aligning those issues?

Mr McCutcheon—Yes. We have a memorandum of understanding with the OGTR, so we have a formal relationship. Our officers are in almost daily contact on matters of GM. We are aware of what GM approvals they would have in the pipeline or have completed and made determinations on and, similarly, they would know what applications we have on our books.

Senator COLBECK—Is there a record kept of what is approved here versus what might be going on globally? Again, that is what to look for if a particular product is coming in that might have the capacity to have a GM presence. If it is approved as safe here, that is one issue, but if it is not approved as safe here that creates a whole different set of flags.

Mr McCutcheon—In terms of the food side, we do not have a list of all the GM foods that are approved internationally, but we do have access to information that tells us in each individual country, or block of countries, what GM foods have been approved there.

ACTING CHAIR—I have one final question. We thrashed out the enforceability stuff. I am wondering if there is a process where you look at the results of their testing. Is there a feedback process where they say, 'We found this, which was over one per cent'?

Mr McCutcheon—Yes. Through the implementation subcommittee there is the exchange of information between all the jurisdictions and FSANZ on testing results and so on.

ACTING CHAIR—Is that on a regular basis?

Mr McCutcheon—However often it is done, yes. I am talking about testing in general here, not just GM. There are lots of coordinated surveys that are done in a range of areas and that is all done under that umbrella.

ACTING CHAIR—Would that be flagged as soon as a state found something or on a six monthly or 12 monthly basis?

Mr McCutcheon—From memory, if a jurisdiction finds something it will certainly notify FSANZ and will also notify AQIS because it is generally talking about imported products.

ACTING CHAIR—I know this is not GM, but I am thinking about when the melamine incident occurred. I think it became an issue because it came up in China first, didn't it?

Mr McCutcheon—We were notified by the New Zealand government, so that was the trigger for us taking action here.

ACTING CHAIR—So if something like that is found by one of the states, that is automatically flagged straightaway?

ACTING CHAIR—Thank you.

Senator XENOPHON—There is no requirement for periodic testing, is there, amongst the states and territories?

Mr McCutcheon—Off the top of my head I do not know, but the National Compliance and Monitoring Strategy may well contain the answer.

Senator XENOPHON—Can you take that on notice?

Mr McCutcheon—Yes.

Senator XENOPHON—So you are notified of results as a matter of course?

Mr McCutcheon—Yes.

Senator XENOPHON—Thank you.

ACTING CHAIR—We have given you a bit of homework. Thank you very much for the earlier inquiry and for this one.

[3.09 pm]

PARFITT, Ms Claire, GM Wheat Campaigner, Greenpeace Australia Pacific

Evidence was taken via teleconference—

ACTING CHAIR—Welcome. Because you have not received information on parliamentary privilege I need to advise you that before giving evidence a witness shall be offered the opportunity to make application before and during the hearing of the witness's evidence for any or all of the witnesses' evidence to be held in private session and shall be invited to give reasons for such an application. We call that in-camera evidence—in other words, it is confidential. If the application is not granted the witness shall be notified of the reasons for that decision. If you do not want to do that then I will not continue reading the rest out.

Ms Parfitt—That is fine.

ACTING CHAIR—A chair of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that information sought for those questions is necessary for the purpose of the inquiry. If you object to answering any question put on any ground, including the ground that the question is not relevant or the question may incriminate the witness, the witness shall be invited to state the ground upon which the objection to answering the question is taken. Unless the committee determines immediately the question shall not be pressed, the committee shall then consider in private session whether it shall insist on an answer, so just be aware of that if you decide you are not going to answer a question.

Where a committee has reason to believe that evidence about to be given may reflect adversely on a person the committee shall give consideration to hearing that evidence in private session. Where a witness gives evidence reflecting adversely on a person and the committee is not satisfied that evidence is related to the committee's inquiry, the committee shall give consideration to expunging the evidence from the transcript of evidence and forbid its publication.

If there is evidence that reflects adversely on a person or action of a kind referred to in the previous paragraph the committee shall provide reasonable opportunity for that person, in other words the person that the evidence reflects badly on or adversely on—and we have done this on many occasions in the past—we will provide that evidence to the person or organisation in question and ask them to respond either in a written submission or before the committee.

There are also matters that relate to contempt of Senate committees, and that is interfering with witnesses. A person shall not by fraud, intimidation, force or threat of any kind or by the offer or promise of an inducement or benefit of any kind or by any improper means influence another person in the aspect of any evidence given before the Senate or a committee.

There are also the issues around the fact that a person shall not inflict any penalty or injury upon or derive any benefit from another person on account of any evidence given to or before the Senate or a committee.

Those are the sorts of things that it would be good for you to have a quick look at afterwards to make sure you know your responsibilities as a witness as well.

Ms Parfitt—Absolutely.

ACTING CHAIR—We have Greenpeace's submission, which is No. 13. I invite you to make an opening statement and then we will ask you some questions.

Ms Parfitt—Greenpeace supports the spirit of the truth in labelling bill which has been put forward and in particular the explanatory memorandum which details the concern that truth in labelling is vital and is supported by the community. We are concerned in relation to specific loopholes in the legislation which are detailed in the submission, as well as failure to enforce the laws that we have. That said, we have some concerns in relation to the bill, particularly for example in relation to the definition of genetically modified materials. We think that needs to be clarified in order to obtain the objective which is stated in the explanatory memorandum, that people are aware of when their food contains genetically modified material or products that are derived from genetic modification.

ACTING CHAIR—Senator Xenophon.

Senator XENOPHON—You said that you support the spirit of this bill. What does that mean?

Ms Parfitt—As I indicated, it is because of the growing community concerns around consumers having a

would like their food labelled if it contains GM derived ingredients, as well as our submission contains details of people who have supported our pledge for truth in labelling. We see that this bill goes to that objective, that people will, in fact, know if their food contains ingredients which are derived from GM processes. That is what we support.

Senator XENOPHON—Is Greenpeace relatively happy with the structure of the bill in terms of how it would prescribe this to occur?

Ms Parfitt—We are concerned about the reference to genetically modified material and the failure in that to address where genetically modified ingredients or products derived from genetic modification no longer contain detectable DNA. There are a number of circumstances in which that can take place, particularly in relation to additives, but also in some situations in relation to highly processed foods. We would say that we need to look at the process by which the food was produced and, if it is produced from crops using GM modification, it should be labelled.

Senator XENOPHON—I am not sure whether you heard the evidence given by Food Standards Australia New Zealand.

Ms Parfitt—I did not.

Senator XENOPHON—I think a fair way of summarising that evidence is that Food Standards Australia New Zealand sets the standards, but the question of enforcement is up to the states and territories, as well as—and I am sure Senator Boyce will correct me if I am wrong—it is a question of an interpretation of that standard is up to the states and territories. I think that is a fair summary.

Senator BOYCE—It is indeed.

Senator XENOPHON—Senator Boyce would not let me get away with not representing Food Standards Australia New Zealand fairly. Do you have an issue with that? Do you think there ought to be a consistent approach to interpretation and enforcement of the standards?

Ms Parfitt—That is a matter for the government. What we are advocating is, whether it happens at the state or federal level, that the loopholes in our legislation be tightened. That is that highly refined foods such as oils and so on must be labelled when they contain products derived from GM. Foods at takeaways, restaurants and so on should be labelled. Animal products where the animals have been fed GM feed should be labelled. There is also this glaring loophole around the accident; all those things need to be changed, in our view.

As far as the enforcement is concerned, we have also submitted as to holding the enforcement process. Whether that happens at the state or federal level, obviously there are certain arguments for consistency, but if it is being done at one level of government, it should be at the federal government. That said, what we are concerned about is that this stuff happens, and less so about at what level.

Senator XENOPHON—Since the S-26 infant formula case study that Greenpeace commissioned with the testing and the like, what feedback have you had from the regulators and the manufacturers after you exposed that?

Ms Parfitt—The regulator sent some of the same formula for testing. They sent six samples to two labs. One lab had all negative responses for GM and the other lab had all positive. As a result of that FSANZ concluded that the results were inconclusive and that the positives were false positives. Given that, in conjunction with the other tests that we had conducted and that had been conducted by Channel 7 at around the time of the exposure of the situation, this amounted to the seventh time that that infant formula had tested positive for GM in six months, so we felt that it was more appropriate that the negative results be regarded as inconsistent with the overall theme. In relation to the industry response, the company has said that the presence is unintentional. Again, we would refer to the consistency of the positive results to indicate that we think that is a little bit questionable.

ACTING CHAIR—I would like to follow up on that. I take your point about the number of times that it tested positive, but how do you relate that to it being an intentional or unintentional contamination?

Ms Parfitt—We would say that when a food manufacturer sources their soy or corn from the United States, where over 90 per cent of the soy and corn is genetically modified, that it is highly likely that the food will be contaminated with GM. In fact, even with segregation measures in place the industry will not provide beyond a level of 0.1 per cent certainty that foods are GM free, so even where the systems are segregated the industry will say that it could be up to 0.1 per cent contaminated with GM. We would say that when this level of GM

presence is consistently being shown in a product then the manufacturer simply has to label it to let people know that they are sourcing their soy and corn from a place where they cannot guarantee that it is GM free.

CHAIR—I understand that. Senator Boyce.

Senator BOYCE—How long have you been involved in your genetic modification campaign?

Ms Parfitt—I have been working here for about a year.

Senator BOYCE—What are your professional qualifications?

Ms Parfitt—I am a lawyer by training. I worked as a lawyer for a couple of years in the early-2000s and since then I have worked for the trade union movement in Australia and at the international level.

Senator BOYCE—Have you done any work in the past in terms of prosecutions around standards?

Ms Parfitt—No.

Senator BOYCE—What level of presence do you want to test to?

Ms Parfitt—We want any level of GM presence to be tested.

Senator BOYCE—Any what?

Ms Parfitt—Any.

Senator BOYCE—Any presence?

Ms Parfitt—Any presence, regardless of the quantity.

Senator BOYCE—You would be aware that after certain levels—

Ms Parfitt—It is no longer detectable.

Senator BOYCE—Yes. It becomes somewhat disputed as to whether the level is real, et cetera. Can you put a figure on what you mean by any level?

Ms Parfitt—Any level of GM presence. For example, we would say that where food has been produced using genetic modification processes it needs to be labelled, regardless of whether the DNA can still be tested or not.

Senator BOYCE—How would that appear on a label?

Ms Parfitt—It would say that this food is derived from genetic modification.

Senator BOYCE—You will have to explain a little bit more how food is derived from genetic modification. There was an example given by FSANZ where unintentional contamination might be that a load of GM free corn is put into the same container that had previously had GM corn in it. Where would we stop in terms of exposure to any GM process? Would you want that product labelled at the end of the line?

Ms Parfitt—Yes, absolutely. Whenever genetically modified food appears on our shelves we think people should know.

Senator BOYCE—Thank you.

ACTING CHAIR—Senator Colbeck.

Senator COLBECK—The position of Greenpeace is that it is overall against GM—is that correct?

Ms Parfitt—Yes.

Senator COLBECK—So effectively taking it down to the smallest minutia basically gives you a campaigning tool against GM for any food?

Ms Parfitt—What is that, taking it to the smallest minutia?

Senator COLBECK—If someone genuinely has an unintentional contamination, which is less than the one per cent where the margin is currently set, that gives you the capacity to campaign against that producer, that food, on the basis of you being anti-GM. You can effectively go out, demand that it be labelled GM, regardless of the fact that it has only got an incidental presence, as assessed by our food safety regulators, and use it as a campaign tool.

Ms Parfitt—Under the current legislation there is not an option for that, because unintentional presence is permitted. However, the situation that we were campaigning against last year, we would say, is not one of unintentional presence, because it is consistently appearing in this company's product.

Senator COLBECK—Senator Siewert has had that discussion with you and I have to say I will up front disagree with you. Just because there were a number of tests does not mean it was intentionally present. I do not see how you can make that assertion. If someone goes out specifically to buy a product and they have specifications that it be GM free, and then it unfortunately happens to have GM in it, I cannot see how under any circumstances you can regard that as being intentional.

Ms Parfitt—No. It can be intentional if a company is sourcing its soy and corn from the United States, where virtually all soy and corn is GM. Identity preservation systems only guarantee up to 0.1 per cent being GM free. They are almost certainly purchasing soy and corn which is up to 0.1 per cent GM.

Senator COLBECK—What you are basically saying is that there is no efficacy in any of the processes?

Ms Parfitt—No. What we are saying is, as the industry itself says, it is not possible to control for GM presence below 0.1 per cent.

Senator COLBECK—That goes to the comment that you made to Senator Boyce about product that might have been put in a container that previously had GM in it?

Ms Parfitt—Exactly.

Senator COLBECK—In your submission, you refer to GM feed having a negative impact on animals that eat it. What is that research? Can you point me to that?

Ms Parfitt—Yes. There are two separate issues. There is GM feed and there is GM being given to animals in animal feeding studies. Towards the end of the submission, there is a list of peer reviewed studies showing potential health risks associated with GM. It is in section 5 of the submission. That is a list of peer reviewed evidence showing negative impacts on animals that have eaten GM foods as part of feeding trials. You will have noted that there have been no peer reviewed studies regarding the impact on human health of eating GM. As far as feed is concerned, there has been some evidence recently to show that, where animals are fed GM feed, the presence of GM DNA can be found in the animal products later.

ACTING CHAIR—I wish to go back to the issues of the processes, whether it is actually present or it has been used in the process of generating an oil and things like that. Could you articulate that a little more in terms of why you want the ingredients and how they have been made and then to labelling? Can you explain that a little more?

Ms Parfitt—We have had GM products in our food system now for a bit over 10 years maybe. We really do not know the impacts of eating GM products. On the one hand, companies tell us that the products are so similar to the foods we eat already that they do not need to be labelled. On the other hand, they tell us that the products are so different that they need to be patented. There is a little bit of a disjuncture here where in some circumstances they are very different and in some circumstances they are not.

Senator BOYCE—So, why do they need to be patented?

ACTING CHAIR—I presume what you are saying is they are asking for patents for that particular process or product because it is different, because of it having been manufactured?

Ms Parfitt—Yes, the basis on which GM feeds are patented. The point I am getting to is that, although we may not be able to detect GM DNA in highly refined oil, for example, it is still a different product to an oil that is not GM. We think consumers have the right to know about that and to make a decision about whether or not they want to eat it, given the uncertainties around the impacts of eating GM foods.

ACTING CHAIR—Senator Boyce is concerned about the linking of the argument between it not being different so you do not have to label it but it being different so you do have to patent it?

Ms Parfitt—Yes.

ACTING CHAIR—Do you want to thrash that out a little bit more for us?

Senator BOYCE—I would be interested to hear how you think the two are linked.

Ms Parfitt—Because, on the one hand, the companies that produce these foods are telling us that they are sufficiently different that they should be subject to patent protection, but at the same time they are sufficiently similar that they should not attract a label. I think those things are inconsistent.

Senator BOYCE—Sufficiently different in what way?

Ms Parfitt—Sufficiently different, do you mean in terms of the patent?

Senator BOYCE—Yes, sufficiently different from a naturally occurring product in what way? The point is that it is about the process used to manufacture, not about the safety or the chemical composition of the product itself, is it not?

Ms Parfitt—The way the products attract a patent is by the insertion of a gene from another species. That is the genetic modification process that enables companies to have a patent over them.

Senator BOYCE—In some cases, I guess. I will stop there. We could go for hours.

ACTING CHAIR—In terms of the issue around the difference of a process or a highly refined oil, the point is that it is not just about it being different; it is about it possibly having health impacts?

Ms Parfitt—Yes, because it is different.

ACTING CHAIR—As to the information that you have given us that we talked about earlier about the health impacts of products that have been genetically modified, does that include looking at highly refined oils, for example, or any other highly refined product process?

Ms Parfitt—I have to be honest and say I am not familiar with the details of all of those, so I cannot answer that question for sure.

ACTING CHAIR—Would you like to take that on notice and get back to us?

Ms Parfitt—Yes, absolutely.

ACTING CHAIR—That would be appreciated. I want to follow up the example that we have been talking about in terms of the baby formula. When FSANZ fed back the results of their tests, have you taken that further? Where have you gone since then?

Ms Parfitt—Do you mean in terms of FSANZ's response on false positives?

ACTING CHAIR—Yes.

Ms Parfitt—As far as I know, that is where it has been left. We received that information a month or two ago.

ACTING CHAIR—My next question relates to segregation. We have had this discussion about putting GM-free corn, for example, in a transport container that has already previously transported genetically modified corn. Does that mean that in America now they do not have these segregated processes for treating genetically modified produce as separate from GM-free produce?

Ms Parfitt—In order to have some identity preservation system, yes, they do, but not as comprehensive a system as we have in Australia. The same applies in Canada. That is part of the reason that the Canadian canola market contaminated so quickly with GM in just a few years, which is not the experience that we have had in Australia. That said, those systems are not foolproof. There have been quite a few examples here in Australia of contamination, even despite our segregation system. That happens in numerous ways, whether it is in the field or at silos or through the transport process.

ACTING CHAIR—Is that why you say you can assume that any soya or corn is contaminated that is sourced from America by manufacturers?

Ms Parfitt—It is a function of the amount of acreage that is planted to GM as opposed to non-GM, so being more than 90 per cent. And also the fact that the very systems that industry use to source soy and corn from the US assert themselves that they cannot provide 100 per cent GM-free certification.

ACTING CHAIR—We had quite a long conversation just before we heard from you with FSANZ and the health department around how they relate with the states in terms of testing. What is your experience in terms of your interaction with the various states? As I am sure you are aware, they are responsible for testing?

Ms Parfitt—Of course. We have met with a few people in a few states to talk about this. In WA we had an interesting conversation where the health minister told us that the best way for people to know whether their food has GM in it is by reading the Greenpeace *True Food Guide*. A lot of what we hear from state politicians about this is that they do not have the resources to do the kind of testing that would be required. That is one of the issues that come up.

ACTING CHAIR—Are you aware how much they do?

Ms Parfitt—Absolutely. In the submission we have detailed the results of FOI requests, which show that none of the states who have responded have tested since 2005.

Ms Parfitt—Yes.

ACTING CHAIR—You have not followed it up since then?

Ms Parfitt—We were in WA and met people there, and we followed up in South Australia. I do not think we have met with anyone anywhere else.

ACTING CHAIR—Does anybody else have any final questions? If not, thank you. I think we have given you a little bit of homework. If you could get that back to us when you can, that would be great.

Ms Parfitt—Yes, no problem.

ACTING CHAIR—Within a reasonable period would be great. Thank you.

Ms Parfitt—Thanks very much.

[3.37 pm]

COSSEY, Mr Matthew, Chief Executive Officer, CropLife Australia

KHOO, Mr Kay, Member, CropLife Australia

QUINN, Mr Daniel, Policy Manager, Biotechnology, CropLife Australia

SHARPE, Mr Colin John, Member, CropLife Australia

ACTING CHAIR—Welcome. I know that you have information about the protection of witnesses and evidence, because I think it is your copy that we stole. We have your submission, which is No. 8. I would invite one of you or several of you to make an opening statement, and then we will ask you some questions.

Mr Cossey—I will be making the opening statement on behalf of CropLife. By way of background—and for the record—CropLife Australia is the peak industry organisation representing the agricultural, chemical and biotechnology sector in Australia, otherwise referred to as the Plant Science Industry. CropLife represents the innovators, developers, manufacturers, formulators and registrants of crop protection and agro-biotechnology products. The Plant Science Industry provides products and services that are key to the nation's agricultural productivity, sustainability and food security. All of the commercially available genetically modified crop technology in Australia is provided by one of our member companies, as is the vast majority of crop protection products. Importantly, our member companies' products are provided to farmers of all forms of agriculture, from organic to conventional to GM. Accordingly, CropLife works from the globally proven position that all these systems can and do successfully coexist.

It is important to start with a few remarks that I hope will give the committee an overview of the need for, and the safety of, GM crops. I will also speak to the principles that should underpin good public policy with regard to GM technology and how that relates to the truth in labelling bill. Through the use of modern farming methods, products and technologies, Australian farmers provide 93 per cent of Australia's domestic food supply with only 40 per cent of Australia's total agricultural production. The remaining 60 per cent of agricultural production is exported. These highly productive farm businesses have been made possible by the rapid and successful adoption of agricultural and plant science innovation over a century. Australia's GM crop researchers are amongst the best in the world. Australian scientists have developed crops that have 20 per cent better yields than existing crops when water is scarce. They have also developed crops that can grow in soils where water has a saline level equivalent to sea water. These technologies could allow in future previously marginal lands to become productive farms.

GM crops are just another step along the same path of technological improvement that brought us the combine harvester and federation wheat varieties. Using these innovations has delivered safe and affordable food to the nation and the globe. GM crops are safe. This is agreed by the elite, leading, mainstream global scientific community. Despite this proven record of safety, every GM crop is then subjected to a further intense global regulatory scrutiny. None of the regulators globally has found safety issues associated with these approved crops. One threat to the potential success of this important agricultural innovation and technology is unnecessary regulation that brings equally unnecessary cost burden. CropLife believes that all regulation should be commensurate with the associated risk, cost and benefit to the community. Science has established there is no health or safety risk differential between approved GM and non-GM crops. However, already the current regulations in Australia impose a much greater level of regulatory burden on the industry, and this bill we believe would only further exacerbate the problem. In the case of food labelling, surely the core foundation to justify a mandatory requirement is on the basis of health and safety. Otherwise it should be better delivered through a consumer demand market driven response. There is no public health or safety basis that would deem it necessary to dictate that manufacturers must label GM content from approved GM crops. Accordingly, we believe that it should be left to the commercially driven response.

The current mandatory labelling regime we believe is unnecessary, but we understand how historically we have it. A further imposition, however, as proposed by this bill we believe would be excessive and not without consequence. The proposed due diligence requirements would discourage food manufacturers from providing any non-GM products. These requirements appear to be redundant with the Competition and Consumer Act provision that prevents companies from giving consumers false or misleading information, and the Corporation Act, which requires that directors are diligent in observing Australian laws. These two requirements already mean that companies have to be diligent in observing Australia's food laws.

The existing exemptions recognise the realities of modern grain supply chains and farms. They are there to provide consumers with choice, not deny it. We do not believe that the bill should be passed by the parliament for three reasons: no health or safety basis for a mandatory requirement, consumer information requirements not related to health and safety are better and most cost-effectively responded to by a market response, and any and all food labelling changes should be done in a whole of industry and coordinated manner, and that process is under way through the Blewett report and corresponding government response, and then for consideration of bills by this parliament. Thank you.

ACTING CHAIR—Does anybody else want to make an opening statement? Could you please clarify what you mean by the second dot point, which is that it is best left up to the market? How do I know as a consumer whether I am buying a product that has GM in it unless it is properly labelled?

Mr Cossey—I would argue that if there is a critical mass of consumer interest in wanting food products that contain a GM crop basis, the market will seek to differentiate themselves and use it as an advertising component to deliver that labelling for you. I go to the point again—and it seems to be a tenor of a lot of what has gone before—that somehow we are working from a position that GM is not safe. Not only would I argue that comprehensively the global scientific community has proven that it is not only safe; it is actually proven positively to be safe. It might be an opportune time to point out that I noticed the previous witness referred to the peer studies that question that. I do not wish to verbal them without their being here, but even FSANZ in 2008 noted: 'The small group of studies often cited as showing harmful effects due to GM foods have, without exception, been discredited by the weight of mainstream scientific evidence and opinion, including that of the UK Royal Society and regulatory agencies around the world.'

It is from that position that we argue, again, that if you are advocating a regulatory regime to provide labelling on a mandatory basis, surely the only basis of that is where there is a health and safety basis for that. Otherwise, the market will, as it does with all labelling, add it to their own commercial advantage by either arguing that it does not contain GM, or I would argue down the future you will see, because we know what the advantages of GM will prove, it may well be that they advocate that it absolutely does contain GM and makes it a better product accordingly. But without the basis of a health and safety concern we do not think that there can be justification for a mandatory requirement for it. Nor do we think it delivers a benefit. If there were imposition of mandatory requirements and they had no consequences, that somewhat diminishes our argument. But there are consequences to imposing mandatory requirements for GM components that, first, also start to deny the purposes that the bill is seeking to achieve and, secondly, can start having impact on the actual innovation that is going on in this area. The example of my first point is testing for GM—and I do not use the term 'contamination'; it is inherently negative, but for products containing GM—is now so sophisticated that you can get it to a much higher level. I think FSANZ mentioned earlier that that one per cent threshold was developed due to the technology testing at that stage. I would argue you can now get it to such a level that really you will get to the point that you will deny consumers any choice because the legal liability requirement of all manufacturers just to avoid risk of being in breach of a requirement would mean they will label all products 'This may contain GM', which will in itself defeat any purpose of providing choice for consumers.

The broader consequence for the industry is a cost burden for this that actually kills innovation and genuine new technology in agriculture. It is seen that we are at a stage that we would not like the broader options for continued research and commerciality of this to be compromised down the path because of a bill that does not value add for consumers.

Senator XENOPHON—You make an assertion in part 2 of the introduction in your submission:

> In agriculture, genes have been modified for more than 10,000 years and this modification has been extremely beneficial to modern civilisation.

Are you saying that genetic modification is similar or identical to natural breeding?

Mr Cossey—Obviously technology now comes into a—

Senator XENOPHON—That is not my question. You are equating natural breeding with GM, are you not, in your submission?

Mr Cossey—It might be better if I pass to one of our leading experts, which is why we have asked Mr Khoo and Mr Sharpe with their scientific backgrounds to attend. Mr Quinn is probably best placed to give you the history.

Senator XENOPHON—Hang on a second. The submission states:

In agriculture, genes have been modified for more than 10,000 years and this modification has been extremely beneficial to modern civilisation. Genetic modification is simply an improvement on previous forms of crop breeding.

Mr Quinn—Yes, that is what we are saying. If I can use wheat as an example, that was originally bred from three unrelated species. There is, I guess, a misconception amongst much of the public that conventional breeding is just plants in the field or perhaps hand pollination. A range of techniques is used in conventional breeding, including mutagenesis, which can lead to completely random genetic changes. mutagenesis started in the 1930s, for example. The point we are trying to make in the submission is that this has been a continual line of improvements in crop breeding technology throughout history, from when we first started hand pollinating and doing what we call wide crosses, to today, where I would argue that instead of our using a sledge hammer we are using a scalpel and very precisely moving genetic material.

Senator XENOPHON—Presumably your background is as a scientist; is that right?

Mr Quinn—That is correct.

Senator XENOPHON—You have one on me. I struggled through year 12 biology 35 years ago.

Senator BOYCE—It has changed.

Senator XENOPHON—Biology has changed? I only got a C for it. I struggled with it. My understanding is that genetic engineering transfers genes from across natural species barriers.

Mr Quinn—Yes, it does. However, so does some conventional breeding. In what we call a wide cross, that is, when two plants that would not normally breed together are stressed through chemicals usually to a point where they will and then create a new species that way. In mutagenesis we are creating genes that have never, ever existed in nature before, and they are both techniques in conventional breeding.

Senator XENOPHON—I want to get to the substance of the bill in a minute, but I was concerned about that particular assertion, because it seems that you are equating the two—natural breeding and genetic engineering. Gene insertion is done either by shooting genes from a gene gun into a plate of cells by using bacteria to invade the cell with foreign DNA—is it reasonable to say that?

Mr Quinn—That is fairly close, yes.

Senator XENOPHON—Fairly close? You are the scientist, I am not.

Mr Quinn—I guess there is a sort of a virus type ophage, as we call it, that is used as well, and slightly different from a bacteria.

Senator XENOPHON—How is it that in the same paragraph you seem to imply that this is some improvement on natural breeding? How can you say that?

Mr Quinn—If I can go back to my starting point about wheat, that is where the 10,000-year thing comes from. Wheat would not have been created by natural processes. We made wheat as a species, and it has been incredibly beneficial to us. A lot of people argue that that was the start of modern agriculture, and modern agriculture underpins modern civilisation. I guess that is what we are trying to get across. It has been a 10,000 year process of our deliberately modifying genes in nature through a range of techniques, and that this is just the latest technique in terms of doing that. It also comes down to animal breeding. You might perhaps breed an animal and see that it is a bit larger than the previous animals. If you look at the different species of cattle that we run in Australia, for example, they are all completely different from a naturally occurring animal. We have bred that to be good for us.

Mr Cossey—I think the Senator's point is that somehow there might be a greater risk in the way that we do this now compared with how it has been done previously. I would argue that in fact science has developed now to the stage that achieving these outcomes is now done in a much more controlled sense, in a way that we not only just know that it will achieve the stated outcome that we are seeking, but also its consequences, particularly in the area of knowing whether it has any possibilities for allergic responses or the like. This science is now so developed that it is actually safer than the way that it was being done previously. Mr Quinn pointed to that. The way we used to try to force two different breeds together, force genes to work together, used to be under severe stress, a high level of chemical, and then see if it would grow. Any unintended consequences are probably less able to be established. Now it is done with such precision that it is not only achieving the goal but any unintended consequences are also very defined in that process.

Senator XENOPHON—When the American Academy of Environmental Medicine states that several animal studies indicate serious health risks associated with GM food, including infertility, immune problems, accelerated ageing, faulty insulin regulation, and changes in major organs in the gastrointestinal system, you are saying that those studies are flawed?

Mr Cossey—We will come back to you on notice with a direct response to that. I know that the American Medical Association has openly and clearly supported all of the mainstream scientific and leading expert scientific research that says that it is safe, and is on the record as discounting any of the studies that have suggested there is a risk.

Senator XENOPHON—Are you familiar with the studies about GMOs and liver problems; that rats fed GM potatoes had smaller, partially atrophied livers, and that the livers of rats fed GM canola were 12 to 16 per cent heavier?

Mr Quinn—We are familiar with all of those studies, and I believe we can say categorically that all three have had major scientific issues with them. I believe the last one has actually recently been withdrawn by the Austrian government, which originally published it, because they had lost faith in the scientific methods that were used to create that study.

Senator XENOPHON—If you could provide me with your rebuttal to those studies? I turn to the bill that Senator Siewert and I introduced and refer to the unintentional presence of GM. You have said that this bill could have the opposite effect? You may have heard the evidence from FSANZ when they were here earlier. It seems that the question of setting the standards is done by FSANZ, and that interpretation and enforcement of those standards is from the states and territories. From your association's point of view and that of your constituent members, would it make more sense that there be a consistent uniform standard as to what 'unintentionally present' means?

Mr Cossey—I think we would be best not to place an opinion on that on the record. It does go beyond our purview. We would argue that—

Senator XENOPHON—But you are affected by this directly, though, are you not?

(3.56 pm) (Please check ###cassera plant, 4pm)

Mr Cossey—Being the industry group that represents plant science, we represent them at the starting stage, not the food processing industry. It is really more an issue for them. But we do go back to the position of noting that, right at the beginning stage, and particularly in the area where our member companies have an interest as a result of providing product and technologies to Australian agriculture, all these systems are biological systems and hence imposing absolute regimes on them does not work. You also have to understand that we come from a position that there is no health or safety basis on which to be concerned. The issue of a one per cent level or a 10 per cent level, or the fact that there is even a need to worry about the GM component, we think is now futile. However, noting that a centralised system and an agreed set of standards would go to providing some certainty for consumers. There is no doubt about that.

Senator XENOPHON—Are you saying that it is a reasonable assumption on the basis of what you have said, and your submission, that you do not think there is any need for there to be a differentiation in products between GM and non-GM?

Mr Cossey—Between approved foods that contain an approved GM crop and non-GM, absolutely. That is why our proposition is that it is no more or less than my knowing whether my wheat is grown on the southwest slopes of New South Wales or on the plains of Western Australia.

Senator XENOPHON—Do you think it is irrational for consumers to know whether their produce is approved GM or non-GM?

Mr Cossey—I believe that, if you look at all of the agreed evidence, in fact any generation of concern over approved GM in food product is driven by a non-scientific, fact free, alarmist and scaremongering section of the community. I believe it is a minority. I am not too sure that it serves the public good or a public policy good, particularly considering the broader importance of food labelling. We support food labelling and all that it seeks to achieve where it needs to achieve public policy outcomes. You get to the point of every time you add something more to a label, you can in fact start distracting them from what are probably important issues.

Senator XENOPHON—So, if it is an approved GM, it is not important whether you are eating something that is GM or non-GM?

Mr Cossey—If it is an approved GM, we would say that the entire regulatory regime from beginning of research through to approval to include in the food chain therefore means it is no longer an issue of mandatory requirement. But if it is an issue of interest, if it is an issue of consumer demand, absolutely. We do not oppose food producers including it, if they believe that their consumers are interested and want it. I would argue that for a principle position of mandating it it should only be done on a public safety or health basis, and there is none.

Senator XENOPHON—Are you saying that there is no basis to concerns about approved GM organisms in food?

Mr Cossey—Correct.

Senator XENOPHON—On that basis, there should be no reason for consumers to choose to buy non-GM, because it would be an irrational choice?

Mr Cossey—Correct. In fact, as I alluded to in an earlier answer, I believe one day it will in fact be that the products that contain certain approved GM components will be advertising themselves more clearly, because the non-scientific, alarmist and scaremongering component of the debate will have diminished and consumers will recognise the significant advantages of GM. I do not say that lightly, not just in terms of a modern developed consumer economy but in terms of the genuine benefits that GM is providing, whether it is the cotton industry in India, golden rice through South-East Asia or, in fact, the phenomenal research going on in Africa with the cassera plant. We are genuinely talking about GM delivering massive, significant benefits.

Senator XENOPHON—So the American Association of Environmental Medicine are crackpots, basically?

Mr Cossey—No, I did not say that.

Senator XENOPHON—You are implying that they are.

Mr Cossey—Mr Khoo is well placed to address that.

Mr Khoo—It is one agency that has come out with that position. I believe they are a minority. Many other agencies have come out in support of it. The number of agencies is also mentioned in the submission that CropLife put in.

Senator XENOPHON—My time is going to run out, so—

Mr Cossey—For the record, the organisation to which you refer is an NGO. It is not a government regulator and the like, and I do not wish to in any way make a reflection on them. However, I would point out that I think it is important for the record.

ACTING CHAIR—Governments have got it wrong before.

Senator XENOPHON—Although presumably it does include medical practitioners and scientists on it. I want to focus on part 1 of the executive summary. You state:

> The development of 'due diligence' guidelines that is required by the bill is redundant—

and I am grateful that you actually made this submission, because I think it is quite a specific and focussed submission—

> ... with provisions in the Australian Competition and Consumer Act 2010, which already prevent manufacturers from engaging in conduct that is misleading or deceptive, as well as obligations in the Australian New Zealand Food Standards Code (Food Standards Code) that require the labelling of any intentionally present GM ingredients. These provisions already effectively require manufacturers to conduct due diligence when making claims that ingredients are not genetically modified.

What is your understanding of due diligence? How would due diligence work? Does your association have protocols in place to say that this is the due diligence we need to conform with to comply with the competition and consumer act?

Mr Cossey—They go to the standard principles of law and reasonableness.

Senator XENOPHON—Again, I commend you for making a very specific submission. Tying it back to another piece of legislation I thought was very clever, and I do not say that in a pejorative way. I thought it was a very focused submission. But for that to make sense, ought there not be some protocols/parameters as to what that due diligence would involve?

Mr Cossey—Again, I would suggest that the entire principle on our legal system provides those components to what would be considered reasonable, and if it were to come into dispute it is our legal and courts system that determines it.

Senator XENOPHON—I think the chair is going to shut me up in a minute. You are the peak body. You advise all of these groups. Is it not part of that advice to say, 'In order for you to comply with due diligence ...'? I have been a member of the Law Society. They say, 'These are the things you need to do for professional practice to comply and to meet standards.' Do you not have some set standards on this?

Mr Cossey—In terms of broader corporate citizenship, we set some of the highest standards any industry—

Senator XENOPHON—Due diligence—

Mr Cossey—I am going to get there. In terms of stewardship and corporate citizenship, we set some of the leading standards of any industry with regard to stewardship and associated programs. With regard to our individual member companies complying with the law, that is a matter for them and their appropriate legal advice. It is not appropriate for us to dictate that. Again, we get back to the position of their needing to comply with the law and the basic principles that underpin that. They need to ensure they are confident that they are meeting the requirements of the law and the spirit and intention of which it is meant to be adhered to.

Senator XENOPHON—Because I have run out of time, can you take on notice how 'unintentionally present' is defined by your association? How do you advise you members on the issue of due diligence and on the issue of 'unintentionally present'?

Mr Quinn—For the purposes of clarification, do you want feedback from our members about how they—

Senator XENOPHON—From your association and from your members.

Mr Quinn—About how they meet the due diligence in food manufacturing?

Senator XENOPHON—In terms of the whole issue of GMOs, as set out, I thought quite well, in your submission in the executive summary, in the context of the Australian Competition and Consumer Act 2010?

Senator BOYCE—We have had some discussions around the concentrations of genetically modified material that one can measure. Could you perhaps give us some sense of what we are talking about in terms of cost, complexity and reliability of tests as you go down from one per cent towards what Greenpeace wants, which is untraceable?

Mr Cossey—Trace elements. One kernel of corn rubbed against another.

Senator BOYCE—Nothing there, yes.

Mr Khoo—There are some studies that show that the lower you go in terms of thresholds the cost goes up exponentially. In terms of the complexity of testing, one is the complexity involved. So, in other words, you have to have a validated method, which is not easy to establish, because there are certain criteria, and you have to have these methods verified by a number of labs in various locations. There is also the complexity of producing high-quality reference material so that you can detect very low thresholds and then there is also the complexity with regard to sampling. If something is at a very low level you might sample a part of your consignment and not find it, but when it gets to the other end and someone tests that consignment again they might hit upon that little bit that is there. So, sampling also adds some uncertainty into it. That is where the costs are associated, in producing the end analysis method in sampling. That is where the cost is associated—the complexity of it.

Senator BOYCE—When you say the costs go up exponentially—I am probably asking you to do something quite difficult—can you quantify that in any way and give us some examples?

Mr Khoo—Not off the top of my head, but I can take that on notice, too, because I think there is a paper by Kalaitzandonakes and Magnier. They have done some quantifications. I can produce that.

Senator BOYCE—That would be good, thank you. The other thing you mentioned was sampling getting more difficult as you are going down the scale. I am presuming that in the example you gave not only would you have to check your source material but you would also need to check every stage of the transportation and processing from wherever the test was done to the ultimate product as well?

Mr Khoo—If you have an identity preserved type of system you would have to do that at every stage of the supply chain.

Senator BOYCE—And you would need to do it at every stage of the supply chain, because it might be easy to say, 'Well, it should only be the last processor who does it', but if I were to find genetically modified material I would want to be able to go back to my supplier and say, 'Well, it is your fault, not my fault.' They are going to have to prove to me that they did not supply it to me in that condition. So, every step along the

Mr Khoo—Yes.

Senator BOYCE—Looking at the bill, is a potential consequence of this that everything would simply say, 'May contain GM material'?

Mr Cossey—Again, it is not for us to suggest legal advice to the food producing industry, but on that principle again of ensuring that you have addressed all liability, and considering how advanced the GMO testing can get to—to the low levels—I would think you would nearly get to the safe position that they simply put the label on everything 'This may contain genetically modified material' to ensure that they do not expose themselves to any action as a safe measure. That then can, I think, take away some of the information choice that the bill is perhaps proposing.

Senator BOYCE—So that we get to the 'may have been made using machinery that was used for peanuts' or something—that sort of 'maybe, maybe, maybe'?

ACTING CHAIR—Which really goes to show that GM is now through the whole of the supply chain; that is what you are arguing.

Mr Cossey—Yes. And again though—

ACTING CHAIR—So you are taking away choice. So your argument—

Mr Cossey—the approved GM, absolutely; it did not come into the chain until it was absolutely proven. I suppose it goes to a point mentioned earlier about the trials. I would encourage the committee to have the OGTR come before it. Just so there is no confusion, the threat of it being caught up in a food processing system I think even at best is stretched theoretically because any trial of GM crops under licence, bar none, must be destroyed at the end of the trial. That contains any unapproved GM risk, but with regards to approved GM, yes.

ACTING CHAIR—That is the argument that a lot of the NGOs are making, that there is no such thing as segregation anymore truly, and that GM is now throughout the system, and that is the basis of your argument. So, when you say there is no choice, your argument is there is no choice anyway.

Mr Cossey—Our argument is that you are dealing with biological systems and therefore the absolutes do not exist and they have happily coexisted for a long time. In terms of any threat, though, again, none of these incidentals actually poses any threat.

ACTING CHAIR—According to the industry.

Senator BOYCE—Parts of a hundred and parts of a thousand, we can talk about. It is when we get to not identifiable at all that there is a problem, is it not?

ACTING CHAIR—One per cent is identifiable.

Senator BOYCE—Yes, but that is parts per hundred.

ACTING CHAIR—Yes. People still want to know.

Mr Cossey—I do not know that they do. I certainly would not, by agreeing to say people want to know, wish to in any way endorse the Greenpeace suggestion that 90 per cent of people want it labelled. I am not too sure of the efficacy of that study.

ACTING CHAIR—Have you done any studies?

Mr Cossey—Our argument is that food producers—who we do not represent—do mass amounts of market research and studies. If it was an issue of such significance I think you would see them already identifying it for or against in their labelling.

Mr Quinn—We have not done a survey ourselves. However, FSANZ did a survey—I believe it was 2007—of 1,200 Australians, and they found that only a very small number were concerned about the safety of GM food ingredients. It was 2.9 per cent, compared to concerns about the safety of fresh fruit or vegetables, which was roughly 25 per cent; meat, 18.8 per cent; raw chicken, 18 per cent, and so forth. The survey showed that people were most concerned with the fat, sugar and salt content of their food. When asked, 'What information do you usually look for on a food label?' they listed 16 other things, including use-by date, country of origin, fat, saturated fat and so on, before they listed GM.

ACTING CHAIR—But that is not yours; that is FSANZ's?

Mr Quinn—That is a FSANZ study.

ACTING CHAIR—Of 1,200 people?

Mr Quinn—Yes.

ACTING CHAIR—I think we might get a copy off FSANZ of that.

Mr Quinn—We could probably provide that to you.

ACTING CHAIR—We will go straight to the source. I just want to know what questions they asked.

Mr Quinn—Yes.

ACTING CHAIR—And who.

Mr Quinn—I think it is worth having a look at the Greenpeace survey and what questions they actually asked, yes.

ACTING CHAIR—Yes, I was intending to go and ask them for theirs as well.

Mr Quinn—Yes.

Senator BOYCE—There was a Newspoll survey.

Mr Quinn—It was a Newspoll survey funded by Greenpeace, yes.

ACTING CHAIR—Governments seem to have risen and fallen on Newspoll surveys. Senator Colbeck, do you have any questions?

Senator COLBECK—In relation to the testing and the comment that you made, Mr Cossey, about destruction, I have seen quite a bit of testing in the past in my home state and I agree with your comment that there is a requirement for destruction. It is not always that simple, though. I have seen circumstances where there has been a reasonable representative sample of volunteers that crop up over a period during that process, and my concern in the question that I had to FSANZ was that they were actually looking at those issues. I also recognise that there are things such as isolation from similar species and that sort of thing, but it is not always all that possible to ensure that you maintain those trials completely contained. I am aware of the fact that they have taken some work to complete the destruction of the trial. Some of them are quite resilient and it is not necessarily a product of their being genetically modified, it is a product of the fact of the plant that they are that they are quite resilient. That was the context around which I was looking at targeting certain areas and certain circumstances for the testing processes, because that is what would make sense to me in an overall regulatory regime. I just wanted to clear that up.

ACTING CHAIR—Do you have any comments in response?

Mr Cossey—No. Mr Sharpe has significant expertise in this area. In advance of OGTR coming before the committee and to assist the committee, he might run through those core issues for you, if you like.

ACTING CHAIR—We have been through OGTR on numerous occasions on these issues—I have to put on the record—not necessarily to my satisfaction, but we will go around the tree again.

Senator COLBECK—I do not have any need to. I understand it relatively well. If you want to put more on the record for this inquiry, that is fine with me.

ACTING CHAIR—I think we need to have a discussion, because we have actually come to a point where we sometimes agree to disagree, but it may be useful for us to get it for this inquiry.

Mr Cossey—Mr Sharpe might be able to just quickly give you, from the plant science industry's perspective, how we view the effectiveness of that system.

ACTING CHAIR—That would be good—very useful, actually.

Senator XENOPHON—If the organisation—the peak body and also the constituent members—have a view as to how they determine 'unintentionally present', that would be quite useful. Take that on notice.

Mr Cossey—I would just note that we would take that specifically to our industry and, again, that our industry are not food processors, but within the context of the plant science industry, absolutely.

ACTING CHAIR—I thought we had already got past that on notice.

Senator COLBECK—Have you asked that question to the Food and Grocery Council?

Senator XENOPHON—I think we should put that up as a supplementary question if we could.

Senator COLBECK—I agree.

Senator XENOPHON—Yes.

ACTING CHAIR—Mr Sharpe?

Mr Sharpe—I can probably answer that very quickly, in that part of the approval process from OGTR to do your tests is that you must comply with a very strict, what we call, stewardship regime to manage that site, including all the volunteers that might come up. I am sure, when you do speak to OGTR again, they can give you the procedure, if you like, that is standard for the companies doing the testing to observe. The companies are audited to make sure that is happening, and OGTR can turn up on your site, pretty much unannounced, and say, 'Show me the site' and have a look and see what is happening.

Senator COLBECK—And I am happy to acknowledge that they are strict, because I have seen some of them.

ACTING CHAIR—Yes, but some of the issues that we have traversed with OGTR is what happens once it is outside the trial period. You will be aware of the Marsh situation in WA. I am absolutely sure you are.

Mr Cossey—I think it is very important to differentiate that and to combine that up with what we have just discussed is not correct. The trials are referring to GM crops that are in scientific trial that are not approved. The material that you are referring to with regards to the farmer in Western Australia—that is an approved GM crop, which poses absolutely no risk whatsoever, and has been, and is, approved.

ACTING CHAIR—Yes, I understand that. This is a conversation we have had with OGTR and you can have a look on the *Hansard*. The point there is that it has still resulted in Mr Marsh losing—and it is a different issue, I know—part of his organic certification through however means the plants got there. I know there are issues around that. It has still resulted in his losing part of his organic certification. That is an impact on him.

Mr Cossey—That is outside the scope of this bill, but in light of the fact that you have mentioned it, I think it is appropriate that I put on the record that our best understanding of that matter, though, is that goes to perhaps what is a standard that is driven more by a position by NASAA and an anti-GM position, as opposed to a pro-organics industry position. That same farm and that same farmer in Europe, Canada and the US, in complying with the international Codex standards, would not have lost that authorisation, as best I understand it.

ACTING CHAIR—That is the certification he is operating under, but it goes to the other issue that we were talking about and that is GM, segregation and so on.

Mr Cossey—Just for the purposes of the trial, I think it is important to note that the conditions under which trials occur and the crop is destroyed and contained are entirely different then from approved GM crops being planted by farmers, as is appropriate. The trials are strictly and totally controlled because they are not yet approved. We are doing that research for the purposes of seeking their approval. As Mr Sharpe has pointed out, the entire licensing through the OGTR in conjunction with the APVMA, makes sure that it is totally controlled, and therefore different circumstances from then a crop that is planted by a farmer which is approved for growing and sale.

Senator COLBECK—You do not need to be involved in this, but I am just going to put it on the record, anyway. It is not always the organic grower that gets impacted by these particular circumstances. I am aware—

Senator BOYCE—Those nasty organic seeds floating over fences.

Senator COLBECK—No, it is not. It is actually quite often some disease coming off organic crops into other crops, because the diseases are not managed. I am aware of a particular site where a fairly nasty case of powdery mildew went through a neighbour's crop, because the organic farmer chose not to treat it. These things do actually work both ways, although we do not very often hear the stories about it.

ACTING CHAIR—I agree with you; it is a broader issue. The issue around liability, as you know, is still an ongoing one, in terms of who has liability for what. I think that will be going around the tree a number of times continuing into the future.

Mr Cossey—With the best intentions.

Senator BOYCE—So the person who comes up with 20-metre membrane fences is going to make a fortune; is that not right?

ACTING CHAIR—Any final questions? We are done. Thank you very much. You have some homework, I think, and we are going to be following up on some of the other issues that you have raised subsequently as well, with some of the other witnesses.

Mr Cossey—Thank you for the opportunity of appearing.

ACTING CHAIR—We will endeavour to reconvene tomorrow in Melbourne.

Subcommittee adjourned at 4.23 pm