



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

ECONOMICS LEGISLATION COMMITTEE

**Exposure draft of the Business Names Registration Bill 2011 and related bills**

TUESDAY, 2 AUGUST 2011

CANBERRA

BY AUTHORITY OF THE SENATE

## **INTERNET**

Hansard transcripts of public hearings are made available on the internet when authorised by the committee.

The internet address is:

**<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to:

**<http://parlinfo.aph.gov.au>**

**ORIGINATING CHAMBER**

**JOB NAME**

**JobDate**

**Senators in attendance:** Senators Bishop, Bushby and Stephens

**Terms of reference for the inquiry:**

To inquire into and report on:

Exposure draft of the Business Names Registration Bill 2011 and related bills



---

<b>ALEXANDER, Mr Graeme, Head of Compliance and Ethics, Australia and New Zealand, American Express.....</b>	<b>20</b>
<b>ALLISON, Mr Matthew John, Head of Data Management, Veda Advantage.....</b>	<b>26</b>
<b>BELL, Ms Rosanne Louise, Acting Senior Executive Leader, Real Economy, Australian Securities and Investments Commission.....</b>	<b>10</b>
<b>BRAY, Ms Ann, Acting Head of Division, Industry and Small Business Policy Division, Department of Innovation, Industry, Science and Research .....</b>	<b>1</b>
<b>BURKE, Mr Anthony Gerard, Chair, SME Business Law Committee, Law Council of Australia .....</b>	<b>15</b>
<b>BURKE, Mr Anthony John (Tony), Policy Director, Australian Bankers Association .....</b>	<b>20</b>
<b>COWLEY, Ms Deborah Anne (Debbie), Business Names Project Director, Australian Securities and Investments Commission.....</b>	<b>10</b>
<b>HARDAKER, Mr Ron, Executive Director, Australian Finance Conference .....</b>	<b>20</b>
<b>STRASSBERG, Mr Matthew Adam, External Relations, Veda Advantage .....</b>	<b>26</b>



**BRAY, Ms Ann, Acting Head of Division, Industry and Small Business Policy Division, Department of Innovation, Industry, Science and Research**

**Committee met at 09:00**

**CHAIRMAN (Senator Mark Bishop):** I declare open this hearing of the Senate Economics Legislation Committee's inquiry into the exposure draft of the Business Names Registration Bill 2011 and related bills. The committee will consider the following legislation currently in exposure draft form: the draft Business Names Registration Bill 2011, the draft Business Names Registration (Transitional and Consequential Provisions) Bill 2011 and the draft Business Names Registration (Fees) Bill 2011. The three bills give effect to the establishment of a national business names register to be administered by ASIC and form one element of the Council of Australian Governments' National Partnership Agreement to Deliver a Seamless National Economy. Under the new regime, which is proposed to take effect from May 2012, all states and territories will refer their powers to the federal government so that the application, registration and renewal of business names will be governed under a national register.

These are public proceedings, although the committee may agree to a request to hear evidence in camera or may determine that certain evidence should be heard in camera. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time. A witness called to answer a question for the first time should state their full name and the capacity in which they appear and witnesses should speak clearly and into the microphone to assist Hansard to record proceedings.

I remind members of the committee that the Senate has resolved that departmental officers shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions to superior officers or to a minister. This resolution prohibits only asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. I welcome Mrs Ann Bray from the Department of Innovation, Industry, Science and Research. Would you like to make a brief opening statement, Ms Bray?

**Ms Bray:** Yes, thank you. The national business names initiative will develop a seamless online registration process for ABNs and business names, including trademark searching. The project will deliver both legislative change but also system change. It is part of the Council of Australian Governments' deregulation agenda. Five years ago, in July 2006, COAG identified this as a regulatory hot spot. This was prompted by a range of drivers, including the January 2006 report of the Taskforce on Reducing the Regulatory Burden on Business, the Banks report. It was also informed by some of the issues raised in the Advisory Council on Intellectual Property's review on trademarks, company names, business names and domain names.

To give you some history, there are approximately 600,000 ABNs and 250,000 business names registered each year. Currently businesses need to go to the ABR, the Australian Business Register, which is part of the ATO, to register for an ABN. Most of those, 96 per cent, use electronic channels for the ABN registration. They also go off to the states or territories to register business names. Most of those registers are over-the-counter registers, although there are two online channels available at the moment in South Australia and Victoria.

Currently businesses have to register their name in each state and territory in which they trade if they are going to use an alias—that is, a name that is not their own entity name. The fees range from approximately \$70 for a three-year registration to over \$200. If they are going to trade and be in each state and territory they need to register in each state and territory. The proposed system will mean that businesses pay one small fee to register nationally, using an online process. That can be done, along with the ABN, either online at the ABR or as a stand-alone business name application with ASIC. So there will be two mechanisms online to do it.

**CHAIR:** Online and manual?

**Ms Bray:** There will be paper based forms that people can lodge. As part of the COAG agreement the states agreed to refer their business name registration powers to the Australian government to allow the national system.

An IGA was signed by first ministers in July 2009 for business names. The national system will not start unless each state refers or adopts the legislation.

Extensive consultation has been undertaken to reach agreement between the states and territories on the proposed national system and the legislation to enable this to happen. The key agencies that have been involved in this initiative are the Department of Innovation, Industry, Science and Research, the Australian Taxation Office through the Australian Business Register, IP Australia, the Australian Securities and Investments Commission and the Department of the Treasury, plus each of the state and territory agencies for small businesses, fair trading and consumer affairs. It is proposed that the new system will start in May 2012 subject to all the legislation going through each of the states and of course the Commonwealth legislation going through.

Why are we doing the project? It is going to deliver significant benefits to both businesses and consumers. The effect of the legislation package is to make sure that, if you are not using your own name, you are on a register. Those trading in their own name or their own entity name do not need to register at all. This is the same as in the states and territories at the moment. For consumers and those dealing with businesses, the new register will allow them to find out the entity name behind a business name. To assist with the identification of the identity behind a business name the system mandates for new registrations an ABN. There are about 5½ million ABNs and the vast majority of businesses have an ABN, so this will not be an impost on the vast majority. They will not be required to register for GST as there are turnover thresholds related to that requirement.

There is a verification process behind getting an ABN and this involves declaring the TFN or other data to the ABR to improve authentication. Most of the current businesses on the state and territory registers have ABNs but will not be required to get one if they do not have one—that is the current businesses. If they do have one, however, ASIC will encourage them to declare it on the new register. Also, because the ABR will in the future only show registered trading names—at the moment they show any name at all—it will be in the interests of the businesses to declare their ABN to ASIC so it can be shown and flow on to the ABR. This will make it much easier in the future to have assurance that the entity name on the ASIC register behind the trading name is accurate.

There will be a lot more public information on the registers available for free than there generally is currently across the state and territory registers. To assist with the identification of the business entities, the register will prevent identical business names in the states and territories being registered in the future and also prevent the registration of otherwise misleading, undesirable or offensive names. This is similar to what happens now when corporations are registered and to what happens now in the states and territories.

For business the benefits are the creation of a new national register to remove the inconvenience and cost of registering business names across the various states and territories. At present, if you are registering in every single state and territory, it is a cost of over \$1,000 for three years. The new system will be \$70 for three years. An optional \$30 fee will be for a one-year registration. If a business moves from one state to another, they will not need to re-register their name if they have only registered in one state nor potentially find that they cannot register because someone else has already registered it.

For businesses an online system will also save time and effort in registration as only two states currently offer an online system. They will also be able to save from prefilling because information will be able to flow over from the ABR. However, the necessity to register a business name under this legislation does not give any proprietary rights over that name. That is consistent with trademark law. The new online system provides links to IP Australia and information to ensure businesses are aware of this issue. Furthermore, as part of this COAG initiative, IP Australia has recently completed improvements to their trademark search and there have been many positive discussions with IP Australia. Finally, there will be one less number that businesses need to deal with. Currently, all state and territory business name registers allocate a business name number. The ABN will replace the business name number for new registrations and allow businesses to be identified through both their name and ABN.

Our submission talks about the extensive consultation that has happened with this since 2006. There have been market testing, discussion papers, stakeholder engagements and public forums. The first exposure drafts of the Business Names Registration Bill and its fees bill were out for three months last year, and then a second draft of all the primary legislation was out for six weeks this year. Truncating the consultation period was in agreement with the Ministerial Council for Corporations. We have also had public consultation sessions on the second exposure draft.

In closing, in developing the national business name registration package, the overriding consideration has been given to striking an appropriate balance between the needs of consumers to be able to identify the name of



the entity behind the trading name in the interests of consumer protection, without unnecessarily jeopardising the privacy of individual citizens who happen to run the business.

**CHAIR:** Thank you. What is the central purpose of the bill?

**Ms Bray:** The central purpose of the bill is to ensure, for those who do not trade under their entity name, that someone is able to identify that particular entity's real name. Also, because it is a national system, it is to allow for improvements in reducing the burden on business by enabling them to register once nationally.

**CHAIR:** As you identified in your closing comments, your submission indicated that there has been extensive consultation. There has been a range of meetings. This is exposure draft legislation. To date you have taken into account comments received from interested organisations who participate in this debate. There is only one particular matter that I want to explore at length with you today and that is the alleged apparent conflict between the provisions of this bill and provisions in the Anti-Money Laundering and Counter-Terrorism Financing Act 2006. We have received submissions to that effect from a range of organisations involved in the finance industry and, for the information of your department, they are available in the booklet provided to the committee members on page 70 from Amex, and on pages 78 and 79 from AUSTRAC. Can you just identify for us the nature of the problem, how you have considered it to date and why your department, on behalf of the government, clearly does not regard the complaints as having such significance to have them remedied on terms satisfactory to the complainants?

**Ms Bray:** We are aware of the several submissions from these groups about the availability, collection and use of personal information, particularly home addresses and dates of birth, under the proposed bills. The area of concern raised relates to requirements of reporting entities such as banks to verify the identity of the consumers using reliable paper based or electronic sources. I understand that under the AML/CTF Act there is a requirement to know your customer and to look for reliable sources of information for their name, home address and date of birth.

**CHAIR:** That is right, and in fact not only is there a requirement but it is absolutely critical to the operational efficiency of major police agencies in this country at a federal level and a state level, and it has been raised in discussion at the parliamentary committee level that overlooks the criminal agencies in this country. So it is not, in my mind, a minor matter.

**Ms Bray:** No. There is nothing in either of those acts that requires the business name registers to be used for customer information verification purposes; other independent and reliable electronic or paper based data can be used instead. The full set of data is not currently available in all the jurisdictions. Only three states collect date of birth for adults, and only one, Queensland, verifies or checks that data. Every other state and territory does not check the home address or the date of birth when that information is gathered and put into the current business name registers. The ASIC register will not be checking either, and we did that on the basis that—in having an online register and being able to reduce the regulatory burden on the millions of people that do register business names—accurate, reliable home addresses and dates of birth were not a necessity for the purposes of this act. So I suppose the question is whether this sort of information should be used when it is currently not checked and will not be in the future either—apart from in Queensland; Queensland asks for a driver's licence to be presented or for a copy of one to be faxed through.

When we set up this system, we had a lot of discussions with the privacy part of the Department of the Prime Minister and Cabinet, and we looked closely at the Privacy Act and the National Privacy Principles. A privacy body's capacity to collect and use home address and date of birth information—

**CHAIR:** I beg your pardon?

**Ms Bray:** Sorry—I mean a private body's ability. I should say that the Commonwealth needs to ensure that a body does not give out information that is not used for the purpose for which it is collected. The purpose for which it is collected is to identify the entity—in particular the name. If you are not trading under an alias, you do not need to register with anyone. So we want to make sure that the name of the person behind the entity name is known.

**CHAIR:** I am hearing you say you have three reasons why the conflict, if I can call it that, between this set of bills and the pre-existing act should continue: (1) you say it is not consistent with the purpose of this act; (2) you say there are significant privacy implications which you have discussed with PM&C and presumably the relevant agency, and they are pertinent in your mind; and (3) you are concerned that the Commonwealth does not give out information that is erroneous.

**Ms Bray:** That is—

**CHAIR:** In error.

**Ms Bray:** Oh—that has not been checked.

**CHAIR:** That has not been checked. It is well known that a range of agencies at intelligence level, at a police level and at a Commonwealth criminal enforcement level use a range of sources of information, some public—various registers—and some private, which they obtain by legal means, and others that they get through their investigatory work. I would have thought that a new, seamless national system that is going to be uniform and applies across the Commonwealth is going to have millions of business names in due course. It will be critical not only to the efficient running and oversight of business and those sorts of entities in this country but also to the regulatory agencies, the Commonwealth and state parliaments charged with a range of law enforcement functions. You say you have considered that.

**Ms Bray:** Government agencies, police bodies, state and territory agencies will have access to all the private data on the registers.

**CHAIR:** I am not talking about private data; I am talking about the apparent conflict between the Anti-Money Laundering and Counter-Terrorism Financing Act and the registration provisions and details to be maintained under this bill when it becomes law. That is the complaint of Amex, that is the complaint of the finance-checking organisations and it is the complaint of the criminal enforcement agencies and that of the oversighting body that looks after money laundering and the like.

**Ms Bray:** I can only say that the law enforcement agencies and the government bodies, those looking after consumer protection in the states and territories and the Commonwealth will have access to all the data on the bill, including date of birth and residential address for law enforcement purposes. The data will not be passed over to private bodies because of privacy reasons. That is not why it is being collected.

**CHAIR:** Do they currently have access to that information in the same form or similar form under the existing different state regimes?

**Ms Bray:** Private bodies?

**CHAIR:** Yes.

**Ms Bray:** Only three states collect date of birth; the other five do not.

**CHAIR:** Which three do?

**Ms Bray:** Queensland, New South Wales and South Australia. I will just double-check.

**CHAIR:** About 60 per cent of the country?

**Ms Bray:** New South Wales, Queensland and South Australia.

**CHAIR:** About 60 per cent of the country by population?

**Ms Bray:** I could not say exactly the percentage.

**CHAIR:** You can add up Queensland, New South Wales and South Australia like I can.

**Ms Bray:** Queensland is the only one that verifies the data. Seven out of the eight states collect home addresses.

**CHAIR:** To the extent that the information is currently collected and maintained by one or more state entities, is it accessible to private organisations and police and intelligence agencies?

**Ms Bray:** Yes, it is at the moment.

**CHAIR:** Why then, if it is currently accessible, does the Commonwealth seek to make the change?

**Ms Bray:** We need to comply with Commonwealth privacy principles because it is legislation sitting under our laws. We have had advice. The Anti-Money Laundering and Counter-Terrorism Financing Act requires people to know their customer and to find a reliable source of information for a name, address and date of birth. But it does not say you must use the Business Names Register.

**CHAIR:** No. I accept that, but private entities, financed credit organisations, police and intelligence agencies at a state and Commonwealth level do use extensive databases that exist for verification and checking purposes. In any of the material that has been provided to the committee I am not aware of any complaints having been made over the last 10 years concerning the accessing or use of that information.

**Ms Bray:** You would have to ask those organisations what else they use that information for.

**CHAIR:** No, I do not have to ask them that, because there have been no complaints made by your organisation, there have been no complaints made by the departments of consumer affairs or business affairs in the states and there have been no complaints made to the committee by anyone else. So it is a fair proposition that the pre-existing system which the Commonwealth seeks to overturn on privacy grounds has been satisfactory to

date because there have not even been any complaints from the Privacy Commissioner. Again, I ask: what is the justification for change and hence the denial of this information which is used legally, to date, in a range of jurisdictions by all of those organisations previously named?

**Ms Bray:** For our Commonwealth legislation, we need to comply with the privacy laws and that means that under a number of the privacy principles we need to use information for the purposes for which it is being collected, and it has not been collected for purposes for private organisations to verify their data.

**CHAIR:** That is kernel of your response?

**Ms Bray:** Yes.

**CHAIR:** Have you identified that justification in the EM?

**Ms Bray:** I would have to check. I will take that on notice.

**CHAIR:** If you have, can you please provide us with the details so that we may consider that. If you have not, can you explain to us in due course on notice why you have chosen not to. You made reference to the Privacy Principles and discussions with the relevant unit in PM&C. Have you taken legal advice on this point from the Solicitor-General?

**Ms Bray:** From the Australian Government Solicitor, yes.

**CHAIR:** Can you take on notice to provide a copy of that advice to the committee for its consideration?

**Ms Bray:** I will.

**CHAIR:** When that advice was provided, did you also at any stage seek advice as to whether it might be appropriate to insert provisions into the bill which provided an exemption, authority or permission for the pre-existing regime that had operated in a number of the states to continue allowing organisations to have access to that information?

**Ms Bray:** Could you repeat that question? Did I seek to make changes to the bill?

**CHAIR:** Yes.

**Ms Bray:** If we had made changes to the bill that would mean we agreed with the policy position of allowing access to the private bodies. After due consideration and agreement with the states and territories and PM&C, we decided not to do that. So we have an insert; we have not changed the legislation to allow for data checking by private bodies and we have not changed the regulations to allow that either.

**CHAIR:** So the Commonwealth is more than comfortable that on the grounds of privacy, police and intelligence agencies—organisations like AUSTRAC and credit providers and the like—who regularly avail themselves of what has been to date publicly available information will no longer be able to access that? That is the strong position of the Commonwealth?

**Ms Bray:** No. The police and intelligence agencies have full access to the information collected. It is only the private organisations that will not have access.

**CHAIR:** What part of the bill provides the police and intelligence agencies with access to the information?

**Ms Bray:** Clause 62 of the Business Names Registration Bill.

**CHAIR:** Can you summarise those provisions for the committee?

**Ms Bray:** Clause 62 says that ASIC must make available ...:

... to a government body ... for ... the purposes:

... enforcement of the criminal law;

... law imposing a pecuniary penalty;

... protection of the public revenue—

as per the Privacy Act—

... the exercise of the powers or the performance of the functions of that body in relation to consumer protection;

... the exercise of the powers or the performance of that function in relation to anti-discrimination;

... in relation to workers' compensation;

... in relation to insolvency or bankruptcy—

the bodies that look after that—

... in relation to licences ...

... maintaining a notified State/Territory register;

**CHAIR:** There is no need to waste your time. The secretary has provided me with a copy of the provision in the bill and I see the linkage. If the relevant body has requested ASIC it must be complied with and made available electronically and without charge. That covers off the police agencies and the intelligence agencies. Thank you for that. Why then does the Commonwealth draw a distinction between the police and the intelligence agencies carrying out their business in a legitimate fashion and non-government entities, which have been able to use the information from the various state entities to date without any apparent complaint?

**Ms Bray:** It is in the Privacy Principles that you are allowed to provide information for those purposes. We have just been complying with the Privacy Principles, the first three in particular: enforcement of criminal law, law imposing a pecuniary penalty and protection of public revenue.

**CHAIR:** So the activities of entities that are not of a public nature which seek to access databases to provide credit ratings and make credit assessments and provide credit information, and the like, are not regarded as significant—

**Ms Bray:** No.

**CHAIR:** as the (i) through (iii) in subparagraph (a)?

**Ms Bray:** Yes.

**CHAIR:** Why is there that distinction?

**Ms Bray:** In terms of the Privacy Principles, I would probably need to take that on notice. I might need to get something written from PM&C to answer that question.

**CHAIR:** All right. I still do not appreciate the difference between organisations that obtain credit information and the like lawfully and use it in a lawful manner, which might assist in the prevention of crimes at a later date, being distinguished from those who seek to attend to matters of a criminal nature after the offence has been created.

**Ms Bray:** Once data is provided to private bodies there is no control over what they might do with it.

**CHAIR:** When you say 'is provided', do you mean a deliberate act by the Commonwealth entity in providing information or does that also comprehend entities accessing information via the net for checking purposes?

**Ms Bray:** Do you mean information via the net that is public or information via the net that is private?

**CHAIR:** The former.

**Ms Bray:** Information that is public is public information. It is not private details such as your date of birth or your home address, so that is not a problem.

**CHAIR:** What is so significant about this private detail—date of birth and home address?

**Ms Bray:** That is used often for passwords. Many organisations will give you a password to do things online and, for instance, if you ring up and say, 'I've forgotten my password' they will, say, ask for some private details such as date of birth, home address et cetera and then give you access or give you the password to access. The concerns for many are that information like this can be used for purposes of accessing private information.

**Senator BUSHBY:** The reporting entities are going to have that information anyway. They are looking to get this information to verify against information that they are being provided—for example, in the instance of a proprietor of a business that is looking to set up an account with them. They will have the date of birth; they will have the home address. They are only looking for this information to compare the date of birth that they have been given and the home address that they have been given with a verifiable alternative, to meet their requirements under the act so that they can say they have done an appropriate identification check. It is not like you would be giving them something they would not already have. And if they do not have what you are giving them then it would be exactly for the purpose of why they needed to check to see that the date of birth is different and therefore this is not the bloke he is saying he is.

**Ms Bray:** No, but if it is a checking process, a matching purpose, as you say—

**Senator BUSHBY:** That is the main concern that it appears to me has been raised in it. These reporting entities have to go off and find corroborating evidence of the identification of the people who are seeking to use their financial facilities. Up to now, certainly in some states, the Business Names Register has provided them with that facility to be able to do that. You are removing one of the options they have to be able to verify and meet their obligations under the separate act.

**Ms Bray:** There is a possibility—I am not saying this would happen and they would do this, but you may not have the date of birth and you could run programs that deliver a date of birth by constantly putting in a date of birth with a name and address to find that information. I am not saying that would necessarily happen, but the

purpose of this bill is not to be a verification purpose for that information. That is not why the information is being collected in the main under the objectives of the act. That is why we are complying with the privacy principles not to provide that to private organisations.

**Senator BUSHBY:** I can understand that, but if you took that attitude to the nth degree with all information that is provided to government these reporting entities would have no hope whatsoever of being able to verify the information they have because whatever they seek to check it against they would be told, 'That is not the purpose of why we set up the ASIC corporations register,' or whatever it might be, other opportunities that they have to verify against. Government verification is the best in terms of being able to comply with their obligations under the reporting act. Ultimately they need to have things that they can corroborate against.

**Ms Bray:** For instance, they do not need to use just an electronic register, they can use paper-based documents like drivers licence, birth certificate, home address, bills et cetera which have home addresses on them that have been checked and are verified. This information has not been checked.

**Senator BUSHBY:** I am not saying it removes all opportunities but I am saying that the attitude you just took then, if every government organisation took the same view and applied that vigorously in the sense that you are suggesting that you are then it would close a whole host of doors that are currently available to reporting entities to be able to verify the information that has been provided to them. The objection that has been raised by various reporting entities here is not that they will not be able to but that it makes it harder for them. If you are seeking to reduce obligatory burden, I am not sure how, because I understand you get all this information anyway, it is just that you do not release it on a business name search.

**Ms Bray:** No, I am talking about in terms of checking. We do not ask them to provide their drivers licence.

**Senator BUSHBY:** In response to Senator Bishop you said you are seeking to reduce the regulatory burden on people registering, as I understood it. But I do not necessarily understand that because I think you still get their home address, you still get their date of birth, you just do not publicly make it available. The flipside is that you are probably increasing the regulatory burden of reporting entities in terms of what they have to do to be able to comply with their act because you are closing one door that they currently have available to them to be able to do that.

**Ms Bray:** My only comment is that that data has not been checked, so is it a reliable source of data. That is the question.

**Senator BUSHBY:** That is another question that raises itself. If the central purpose of the bill, to paraphrase you, is to know who is operating a business that is operating under an alias, if you do not actually check the names, the home address or the date of birth when they register, how do you actually know that the person who is named as behind that alias is actually the person they are saying they are?

**Ms Bray:** With the ABN, because we are mandating the ABN with the registration of a business name, there will be a greater degree of proof of identity. When you get an ABN you have to go through a process where you either provide your tax file number, which has gone through a 100-point check—

**Senator BUSHBY:** Isn't it the case under these proposed bills that you have to get an ABN if you get a business name?

**Ms Bray:** We have to get an ABN for new business name registrations.

**Senator BUSHBY:** In that sense you are verifying, then.

**Ms Bray:** Verifying their name, the entity name, not all their date of birth details. That does not flow through and neither does their home address.

**Senator BUSHBY:** But you are giving a degree of verification—

**Ms Bray:** To the name.

**Senator BUSHBY:** That raises other questions as well. The central purpose of the Business Names Register is so that you know who is actually operating the business. If a customer has issues with the business and needs to deal with that, they can go to the heart of who actually owns it. If you had an issue and you were looking to serve documents on a business owner, how would you do that if you do know their home address and you just have their business address, which may or may not be there when you go to serve the documents?

**Ms Bray:** There is an address for service as well as the principal place of business.

**Senator BUSHBY:** But that may well be their business address when they register, which may no longer exist. The whole purpose of it is to get to the nub of who is running that business and who has allegedly caused you harm so that you can go and chase them for restitution.

**Ms Bray:** The consumer affairs agencies can get hold of the home address if they need to, as can the police.

**Senator BUSHBY:** Under what circumstances would they release that to the solicitor of a private individual who was seeking to serve documents?

**Ms Bray:** I would need to take that on notice.

**Senator BUSHBY:** To me the whole point of the Business Names Register is that you can actually chase somebody for redress over harm they have caused you when the fly-by-night business is no longer there. Do you mind if I move onto some different issues, Chair.

**CHAIR:** Yes, I think we have done this issue to death.

**Senator BUSHBY:** Overall I think it is a great initiative to try to put all of this together and have a single Business Names Register but, as we have heard from the reporting entities and other submitters, there are issues that have been raised with it. I understand that there appears to have been a lot of consultation but there are a number of issues that have been raised like this. We have gone through this one in some detail but there are others, like the apparent lack of dealing with opportunistic registration and requiring those who register to make some sort of statement or certification that they have a right to the business name. Opportunistic registration is when you might see that McDonald's is a big thing in America and you go off and register 'McDonald's' before it gets here and try to sell it for a big whack of money down the track. There are ways of dealing with that by requiring certification in advance. You say, 'Yes, I have a right to this name,' and make it cancellable if they cannot prove that they had that right at a later date when somebody asserts that it was an opportunistic registration. That sort of thing does not appear to have been dealt with in this.

**Ms Bray:** The mere fact of registering a name does not give you any proprietary rights over a name at all.

**Senator BUSHBY:** It doesn't, but it might mean that the company that is using it elsewhere cannot register it here because it is already registered. An example of that, to continue with the hamburger thing, is Burger King. Many years ago 'Burger King' was registered in the WA business names register before Burger King came to Australia. When Burger King did come to Australia they could not use 'Burger King' in Western Australia, so they set up with the name 'Hungry Jack's'. As you mentioned, there is no intellectual property right in it, but there are ways you can deal with that if government considers it the appropriate thing to do. I was wondering whether it was considered and, if not, why not?

**Ms Bray:** In the application process we are going to explain to businesses that there are not any proprietary rights. You do not have a right to use this name just because it is registered—

**Senator BUSHBY:** I understand that but the bill could have dealt with that.

**CHAIR:** Senator Bushby, allow the witness to answer the question before you proceed to the next question.

**Ms Bray:** We will alert them to the fact that trademarks are the only way of protecting their property and that they should register a trademark. Then we will send them off to that link. Also, under the law we allow for a deregistration process when a court order is provided. So if people have battled out who owns a particular trademark it can be deregistered.

**Senator BUSHBY:** It depends on the basis of the trademarks. I will not pursue that any further. It has been raised or suggested that domain names using business names are a complicating factor with the way that people do business these days and that that needs to be addressed in the context of this. In other words, the use of domain names may infringe on business names. It crosses over. You might have Ann Bray Sewing or Ann Bray Consulting and somebody registers the domain name [www.annbrayconsulting.com](http://www.annbrayconsulting.com) before you do. The question is whether there should be a link between business names and domain names. Is that something that was looked at at all?

**Ms Bray:** You can register the domain name as a name. But if Ann Bray Consulting is already there, the [www](http://www) gets ignored. The domain name is something that is very important for people. It is an address rather than an ownership thing. It is not a trademark; it is an internet address. For .com.au addresses, there must be some relationship between a registered business name, a trademark and the com.au address that you register. That is my understanding. That is not the case for .com addresses.

**Senator BUSHBY:** The suggestion from the submissions that we received was that there should be some link. If you register a business name—say, Ann Bray Consulting—that should have some legal effect in terms of your right to the domain name. There should be a link between those two.

**Ms Bray:** There is a link at the moment with AuDA. After you register a business name, a trademark or a company name, when you go to the Australian domain name register—so if you want a .com.au address—there is a link. I am happy to take this on notice to check it.

**Senator BUSHBY:** If you could take that on notice, that would be good.

**Ms Bray:** But five years ago, certainly, you had to have one of those things to be able to register a .com.au address and it had to be a variation, such as a shortening or a lengthening of it.

**Senator BUSHBY:** A domain name cannot be exactly the same as somebody else's domain name, but it can be one character different and still be registered. Anyway, if you can take that on notice and let me know what the story is there and what you looked at that would be good.

**Senator STEPHENS:** Following on from Senator Bushby, I would like some elaboration about businesses that are only trading on the internet and that do not have a physical address. How are they affected by this legislation?

**Ms Bray:** If they are located in Australia—so they have a home but they do all their work over the internet—they are required to register on the system. That was the case with seven out of the eight states and territories previously. If they are international businesses, they will not be required to register in Australia.

**Senator STEPHENS:** Yesterday we were all here in this room discussing the register of not-for-profits. Has there been some discussions in your department on this process and the whole issue about establishing a charities register. There are many similar issues but also other challenging issues around charities that are registered in each state, with there being no national registration method.

**Ms Bray:** I am aware that that is being looked at currently. I am not aware of the solution that has been decided upon.

**Senator STEPHENS:** However, there are many consistent arguments and lots of learning from your consultation that could be shared.

**Ms Bray:** This happened with company names too. Previously corporations were with all the states and territories until the referral of powers, and then they came to ASIC.

**Senator BUSHBY:** Obviously the business names registers in each of the states raise revenue for each of the states. The new Business Names Register will raise revenue for the Commonwealth, I imagine in some lower amount than in toto for the states because you only have to register once and in some cases businesses would have been registering in a number of states. What arrangements have been put in place between the states and the Commonwealth to fix that, particularly in the transition period? In the longer term the states are going to be missing out on some revenue that they would otherwise have been receiving.

**Ms Bray:** This project is under a COAG National Partnership Agreement where states and territories receive Commonwealth payments for undertaking 27 deregulation projects.

**Senator BUSHBY:** So it is part of the broader agreement.

**Ms Bray:** It is part of that NPA. The states and territories will receive reward payments for achieving these initiatives, and this is one of them.

**CHAIR:** Thank you very much for your courtesy and professionalism this morning. We will give you some more questions to answer in writing in due course.

**Ms Bray:** Thank you.

**BELL, Ms Rosanne Louise, Acting Senior Executive Leader, Real Economy, Australian Securities and Investments Commission**

**COWLEY, Ms Deborah Anne (Debbie), Business Names Project Director, Australian Securities and Investments Commission**

[09:51]

**CHAIR:** Welcome. Do you have an opening statement you wish to make?

**Ms Bell:** Thank you. I would like to make a short opening statement.

**CHAIR:** Please proceed.

**Ms Bell:** Thank you for the welcome and for the opportunity to come here today and discuss the national business names bill with the committee. My name is Rosanne Bell and I am the senior executive leader responsible for real economy matters within ASIC. With me today is Ms Debbie Cowley from our registry services team. I would like to open by providing an outline of ASIC's priorities and where the National Business Names Register and project sits within that, then turn to our progress in implementing this new measure.

With regard to ASIC's strategic framework, our chairman, Mr Greg Medcraft, has spoken of ASIC's three strategic priorities at Senate estimates hearings recently. These would include, firstly, a renewed focus on confident and informed investors and financial consumers. That is all about educating the community, including through our MoneySmart website and related products, and using new ways to help inform households and encourage people to improve their literacy. I note that ASIC has been very pleased to see that members have been actively promoting a number of our initiatives in the community.

Our second priority is fair and efficient financial markets. This includes market supervision and competition. Importantly, our third priority is efficient registration and licensing. We place particular focus on activities that enable and support small businesses. It is this third priority that defines ASIC's work and commitment in designing and implementing a service to register national business names efficiently. Within ASIC registration and licensing is managed by our real economy teams, and this area, amongst other things, is responsible for the registration of around 1.8 million companies, some 10,000 credit and financial services licensees and many others. We are also responsible for public access to ASIC's registers and we facilitate over 65 million searches of our registers annually. So, for ASIC, registration and licensing is a key area of service delivery and the area that deals mostly with companies, small businesses and members of the public. It is also the area within ASIC responsible for the implementation of the national business names initiative. ASIC is responsible for building and implementing the systems, processes and functionality for the registration, maintenance and searching of our national business names. We have been reviewing and assisting in the development of that emerging legislation and policy around the measure, and mostly we have been working very hard to get our systems together. We have finalised our process design and our technology architecture and we are busily building our enabling systems. This includes the register itself, the registration and lodgement portals and the search functionalities. Our service has been designed to be online—that is, you can register a business name online, you can renew it online and you can maintain the registration details online. We have also done a lot on the services around the register, such as designing and building systems to exchange data with the Australian Business Register, and systems to generate relevant correspondence. In addition, ASIC will be busy supporting those who have current business names as they transition to the new services, as well as facilitating new business name registrations.

ASIC has been working closely with the Department of Innovation, Industry, Science and Research on this project. We have also been working with the relevant government officers in each state and territory. ASIC of course also has partnership arrangements with many information brokers. These organisations—and some have provided input here today—have played an important role for many years supporting the needs of business and the broader community to help them to access the information they need. ASIC does look forward to an ongoing productive relationship with the information brokers in the future.

Within ASIC the business names project is led by an ASIC project board and it is chaired by Commissioner Dr Peter Boxall, who provides general oversight for this project. We are also guided within ASIC by an external business advisory committee comprising industry groups, professional associations and others. This committee



meets regularly and provides feedback and advice on matters such as business names implementation to ensure that our new services meet their needs.

ASIC is serious about working to make the process of business registration and licensing as efficient and easy as possible. We are very committed and we are looking forward to sharing our work with the public. We have already started some user testing of our new services with external business groups, and I am pleased to say the early feedback is very positive. We know that this initiative is going to make things easier for small business, who do not like things to be any more complex than they need to be. We also know that small business represent a significant part of the economy and they employ a lot of Australians. So we are proud to be playing our part in making it easier for small business to interact with government with the minimum of red tape, allowing them more time to focus on their businesses. That concludes my comments. We are ready to take any questions.

**CHAIR:** Thank you, Ms Bell. Ms Cowley, do you have any opening comments you wish to make?

**Ms Cowley:** Not planned comments.

**CHAIR:** That is fine. Ms Bell, you heard the previous discussion that we were having when the committee opened. Ms Bray made it quite clear as to the supremacy of privacy principles in terms of the justification for not allowing access by non-government entities to certain information which has to date been collected by three of the state entities. I take it from the comments made by Ms Bray that ASIC is comfortable with the bill as it is drafted in respect of that particular matter.

**Ms Bell:** I believe ASIC is comfortable that we can administer the bill in the way it has been drafted, so yes.

**CHAIR:** I did not ask you that. I asked you particularly: does ASIC support the provisions in the bill in light of the discussion I had with Ms Bray or do you have any reservations?

**Ms Bell:** I do not have any reservations. I believe we can proceed with that effectively.

**CHAIR:** Comments and complaints have been made to this committee by various finance-providing organisations or finance-checking organisations that to date have been able to access names, birth dates and other information. Do you regard their complaints as having sufficient significance that the committee should recommend to government that that provision be reviewed?

**Ms Bell:** I would not recommend that it be reviewed. I am fully aware of the privacy principles underlying the development of the current position. I would accept that they are important in this conversation. I would note that there is a difference between the Corporations Act and the way that operates and the proposed business names legislation, and that is of some concern to these stakeholders.

**CHAIR:** Why is that a concern?

**Ms Bell:** Through the Corporations Act they do have access to dates of birth and residential addresses of office holders of companies, and ASIC has and will continue to provide that information to these third parties. However, should the same individual be on the Business Names Register, we will be unable to provide that information to those parties.

**CHAIR:** In your role as the superior regulator of business activity in this country, what is the justification of the difference in approach to entities that register as corporations, and gain both the benefits and responsibilities of that, and entities that choose to go down the path of business name registration? Why is there a different approach?

**Ms Bell:** I could not speak authoritatively on that other than to note that the Corporations Act was designed and constructed quite a long time ago and perhaps in a different environment where the privacy concerns were perhaps not so paramount as they are today. Certainly in the Corporations Act the objective was to enable people accessing the register to identify the individuals behind corporations, particularly since corporations are legal entities within legal infrastructure with various rights and obligations upon office holders et cetera. I guess it was felt that those office holders needed to be identified to the stakeholders.

**CHAIR:** For corporations it is quite critical to proper regulation, supervision and checking of their activities that directors be publicly known, assessable and capable of being checked. I just wonder why it is appropriate for an entity that chooses to regulate itself by way of incorporation and it is not appropriate for an entity that chooses to gain certain advantages under this bill. What is your response to that?

**Ms Bell:** I would just note that a number of corporations will have registered business names and where it is a legal entity sitting behind the business name, searches of the corporations register will be able to be conducted to identify the individuals behind those entities. Perhaps the key difference is where it is sole proprietors or individuals who are holding or who have registered the business name who we are trying to seek details of.

**CHAIR:** So if you go through a two-step process via the Corporations Act and access databases that way, you can legally obtain the information which is denied to you via the one-step process. What is the policy justification for a different approach in this modern age to the regulation of like business entities?

**Ms Bell:** I would have to take that on notice and refer back to the intent behind the Corporations Act.

**CHAIR:** I would appreciate it if you did that. The Corporations Act is a live being. It is regularly the subject of policy prescription by government. It is regularly the subject of interpretation by courts at various levels. From time to time it has been reviewed by this and other committees, and from time to time it has been amended by government to either update or change provisions to reflect court decisions. So it is not some sort of act that was created 90 or 100 years ago and no-one has had the time to modernise it. The government is in the business here of developing a very streamlined, efficient, market driven, business orientated piece of legislation to take us through the next 25 years, and yet we are creating a regulatory system that, on its face, appears to be inconsistent with the major regulatory piece of legislation in this country. Apart from concerns related to privacy, which Ms Bray has outlined, no-one has been able to offer any other explanation.

**Ms Bell:** Corporations are legal entities with obligations and privileges. A business name is not a proprietary right. I think that is a fundamental difference between the two pieces of legislation.

**Senator BUSHBY:** You just mentioned that a corporation is a legal entity—and so is the individual behind the business name. The purpose of the business name register is to find out who the individual legal entity behind the business name is for the purposes of pursuing any issues you might have with the business operating under that name. So I do not know that I fully accept your explanation of the difference. One difference, though, may be that members of the public are charged for company searches. What is the current fee for a company search?

**Ms Bell:** The fees are \$9 for a current extract of a company and \$17 for a historical extract.

**Senator BUSHBY:** From memory—I used to work in the legal field—that is cheaper than it used to be.

**Ms Bell:** It is very similar to what it has always been. If you come in and do a search over the counter at an ASIC office you will have a surcharge on top of that.

**Senator BUSHBY:** If you want to be cynical about the difference between these—one is charged and one is not—ASIC is a net contributor to consolidated revenue; it raises a lot more money than it costs to run it. Company searches, I imagine, contribute significantly to that. You want to get value for your company search, so you provide all the information that people actually want so that they will pay for it. I expect that this probably not the reason but, if you wanted to be cynical, you could look at it from that point of view. How much extra money were you provided out of consolidated revenue in order to be able to set up this register and make it all happen?

**Ms Bell:** I would have to take that on notice. Sorry, but I do not have the figure.

**Senator BUSHBY:** You were provided extra funds?

**Ms Bell:** Yes, we were. We got some funds through a new policy proposal for both the establishment of the registers and the ongoing administration of the registers.

**Senator BUSHBY:** How many staff do you have devoted to making that happen?

**Ms Bell:** I cannot tell you the exact number, but I can tell you that we have a sizeable project team within the business side of ASIC—we have in the vicinity of 10 people working on it—and a sizeable technology team building our new registers, which is way larger than the business side.

**Senator BUSHBY:** Are they additional staff or did you use existing staff?

**Ms Bell:** We do tend to draw from existing staff who have expertise in the registers, but we will often backfill the positions they have moved out of.

**Senator BUSHBY:** If these bills pass, will ASIC undertake an educational or marketing campaign on the changes and the new processes in order to inform the public at large and, in particular, those who are likely to be registering business names?

**Ms Bell:** Communication will be paramount to the success of this implementation. A communications plan and strategy has been developed at the whole-of-program level. That is a collaboration between DIISR, the Australian business register, ASIC and the states and territories, each of which will need to engage with these stakeholders. There will be a number of mechanisms that we will use, including information on ASIC's website. I envisage we will have a series of road shows, or speeches of some sort, around regional centres. We are liaising with our business advisory committee. Importantly, as renewals of business names occur, we will be using targeted correspondence to our new constituents to inform them on how to interact with ASIC. ASIC also has a

well-established call centre and various other established channels of communication, so we believe there will be a significant effort prior to going live.

**Senator BUSHBY:** Will you be sending a letter out to everybody who has a business name to tell them that it is going to expire? I do not think that happens in most states now.

**Ms Bell:** Yes, we will. In fact, with our new service we will not only have renewals going out but, because it is online, we will have access to email addresses and we will be able to have much more proactive alerts and reminders both to people who are due to renew and people who have failed to renew.

**Senator BUSHBY:** That would be a very effective way of advising existing people—assuming their details are up to date.

**Ms Bell:** Yes.

**CHAIR:** Are all the states coming on line at the same time, or are you going to sequentially move across Australia?

**Ms Bell:** We will have one date where the whole new national register goes online, and in the few months prior to that we will be working with each department in the states and territories to migrate their current registers across. Then we will have one go-live date and various transitional arrangements to facilitate any impacts that occur around the go-live date.

**Senator BUSHBY:** Although I think it is a good initiative, there are quite a few business owners in some states that may well forget that their business name registration is due and find later on that somebody else has registered it. It has happened at times. Is there a budget for the education and marketing campaign?

**Ms Bell:** ASIC will use some of the appropriated funds for that. I cannot tell you that it has a specific budget or that I am clear exactly on how many dollars will be spent on that.

**Senator BUSHBY:** Would you check that to see whether a particular budget has been set aside for that.

**Ms Bell:** Yes, we can do that.

**Senator BUSHBY:** Whether out of the extra money or otherwise—I am interested to know how much. If there are any formulated targets in terms of whom you try to get the information to and any outlines on how you are approaching that, I would be very interested.

**Ms Bell:** By way of analogy, when we implemented national consumer credit we used live webcasts as a tool to access audiences around the country. That was very effective, so I am sure we will use that sort of tool as well.

**Senator BUSHBY:** I presume you will also be looking at accountants, agents and the like, who often register business names for businesses.

**Ms Bell:** A real synergy we have with the Corporations Act is that we already have established relationships with many of these parties in relation to the corporations work, so we can leverage our existing networks and systems.

**Senator BUSHBY:** I would have asked the department this, but it may well be relevant to you: a section in the fees bill talks about a maximum amount of fees that can be charged. I think it talks about \$10,000 in one circumstance and \$50,000 in another as maximum fees that can be charged. That seems nonsensical to me because we are talking about a \$70 fee for business registration, and another section of the bill makes it clear that we are not talking about penalties. Do you have any understanding of why there would be a section that says there will be maximum fees of \$10,000 and \$50,000 depending on different circumstances when it does not seem to make a lot of sense? The Treasury has indicated that the \$10,000 and \$50,000 limits are unmodified from the caps imposed under the Corporations (Fees) Act and it is not contemplated that any fees under the business names regime would ever approach this sum. Given that we are looking at these bills before they become law, are \$10,000 and \$50,000 limits appropriate to put in the bills? Does it make any sense to you other than the fact that it has just been transferred straight across from the Corporations Act?

**Ms Bell:** I do not know the origin of that section, but I personally could not envisage a situation where a business name owner or proprietor would be charged that amount.

**Senator BUSHBY:** They should feel fairly comfortable that the fee is not going to be jacked up from \$70 to \$10,000?

**Ms Bell:** I would hope not, and if it did it would be through changes to regulation.

**Senator BUSHBY:** That is another issue that I would have liked to raise with the department. I will probably follow up with questions on notice about the degree to which the fee schedules and formulas are being placed into regulations rather than into the bill. My understanding of the idea of fee formulas is that you do not need to put

them in regulations because it is a formula and you can change other aspects of the parts that go into the formula by regulation, but it provides certainty to parliament as to what they are actually delivering in terms of the particular bill because they know what the formula is. By shifting the formula and fee schedules into regulations altogether it makes it much harder for parliament to provide the oversight that it should in those matters.

**Ms Bell:** By way of analogy for the Corporations Act, the fees are contained in regulations which are indexed annually using a preset formula.

**Senator BUSHBY:** But the formula would be set in legislation, wouldn't it?

**Ms Bell:** Yes, it is.

**Senator BUSHBY:** And I do not know that that is the case in this instance.

**CHAIR:** Ms Bell, I was recently involved in a fairly major hearing concerning the Australian public health regulatory agency. That agency was charged with bringing together all of the legislation which regulated eight or nine different subsectors of the health industry—chiropractors, physios, doctors, specialists and the like. Involved in that process was the migration of a huge amount of information from dozens and dozens of separate state entities, with different registration processes, retention of different bits of information, different accessing regimes, different letters of correspondence and different trials—blah, blah, blah. It became the subject of some significant political comment and criticism. Eventually there was a full inquiry and recommendations came from both government and opposition as to the way forward. I would just draw that to your attention. Undoubtedly you are aware of it—the problems there and the way they were remedied—but as has been made clear today and in briefings to us, this first set of Commonwealth legislation seeking uniform regulation is critical going forward and critical to the government's agenda. I heard your comments earlier and clearly you have done a lot of work in preparation for going live on 30 June next year. I commend that report to you. It might be of some assistance to your officers in anticipating problems before they occur, as opposed to us being charged with a reference 12 months after the event.

**Ms Bell:** Thank you for the suggestion; we welcome all tips and pointers.

**CHAIR:** As there are no further questions, I thank you Ms Bell and Ms Cowley.

**Proceedings suspended from 10:17 to 10:29**

**BURKE, Mr Anthony Gerard, Chair, SME Business Law Committee, Law Council of Australia**

**CHAIR:** Thank you for your attendance, Mr Burke. Do you have any opening comments you wish to make to the committee?

**Mr AG Burke:** Yes, if the committee pleases, I would like to make a couple of preliminary observations. I will not traverse issues that I have already identified in the papers. I can say that the Law Council embraces the submissions from Gilbert and Tobin and the Queensland Law Society. I gather that neither of those organisations will be represented.

**CHAIR:** No.

**Mr AG Burke:** But they have provided some useful comment, and we adopt their comments. I will make comments in relation to three matters. The first matter has to do with resourcing; the second is, if you like, a left-field suggestion that might warrant consideration for the future—certainly not today; and the third is in relation to an issue that does not appear to have been picked up either in the Law Council's own submission or in any of the others, which I think should be of concern.

First of all, I will address the resourcing issue. I am a sole practitioner in legal practice. I daily encounter proprietors of SMEs. At a forum last week in Sydney the Commissioner of Taxation, Michael D'Ascenzo, indicated that, using the ATO's own metric, there are something in the order of 2.7 million small businesses in the country at the moment. Most of those small businesses, or a large proportion of them, will be the holders of business names throughout the states and territories. Most of them will never have had any encounter with ASIC, and likewise ASIC will never have had cause to deal with this very broad demographic of business proprietors. One of our concerns at the Law Council is that ASIC may be overwhelmed by the demand and that they will encounter a client base that is daunted by legislation that goes well beyond that with which they may have had some passing experience. For example, the Victorian legislation runs to some 34 sections and the new bill runs to some 90 sections, not including the transitional provisions. So there will be a significant cohort of business proprietors who will be somewhat daunted by the process, and perhaps at another time in another committee issues of resourcing will need to be addressed.

The second issue, the left-field issue, is one that was raised at a SCAG harmonisation forum in Sydney some months ago, and it arises as a consequence of what we are now seeing, and that is a convergence of databases, if you like. We see a migration of state and territory databases in relation to business names to an existing, already comprehensive database run by ASIC in relation to corporations. It should not be beyond the wit of the legislators in this place at some time in the future to make it possible for that more comprehensive database to also embrace things such as unsatisfied judgments. If one is concerned to establish a transparent single portal whereby businesspeople, lenders and consumers can inform themselves about those with whom they propose to do business then it would be a useful add-on to what is emerging as a significant database of relevant business information.

**CHAIR:** Mr Burke, could you briefly tell us what you mean by 'unsatisfied judgments'.

**Mr AG Burke:** If one thinks, for example, of phoenix companies, which have been a challenging issue for a number of years, those of us in practice often know that the victims of phoenix companies find themselves in that position, because they do not have a ready mechanism of identifying the serially delinquent players in commerce. If it were possible, by means of a single publicly accessible portal, for people in business to identify those who abuse the social licence which they have either as a limited liability company or as a proprietor of a business name, it should be easy to identify them, and that makes possible some degree of citizen advocacy in their own interest, if you like. It is the nature of the data revolution that ultimately over time these sorts of developments can converge so as to make possible things which were previously not possible. Knowing that the party with whom you propose to contract may have one or more unsatisfied judgments is useful intelligence before you proceed further. It is not a policy position of the Law Council; it is a left field thought for deliberation at other times, but it does become possible as a consequence of the process we are going through in terms of this single database.

I will leave that one for rumination on other occasions and flag the sleeper issue which, to my embarrassment, we overlooked in our submission. That has to do with section 40 of the bill, which seems to contemplate an arrangement whereby ASIC might find itself trammelling in state and territory probate jurisdictions. I am not sure whether that was the intention. The section is intended to provide some mechanism whereby on the death of an individual, being the proprietor of a business name, it is possible for someone claiming an interest in the business name, without having any formal grant of probate of a will or letters of administration of an estate, for example, to approach ASIC and seek to be able to deal with the business name. I also practise in the probate and estate area

and I can see conflict of jurisdiction issues arising there. I can see the potential for forum shopping and I just wonder whether that was a well-conceived inclusion in the bill.

**CHAIR:** We might come back to that, Mr Burke.

**Mr AG Burke:** For example, section 40(3) states that 'ASIC must register the business name to the estate of the deceased.' I do not know what that means. An estate is normally represented by a legal person or representative, either an executor or someone who has a grant of some formality from a court exercising probate jurisdiction. I do not know what that section means. I suspect it was an attempt to find a remedy for those who were not really keen to go to the trouble and expense of bringing an application in the state or territory courts for a grant of probate.

**CHAIR:** Is it covered off in the EM?

**Mr AG Burke:** I do not believe so.

**CHAIR:** There is nothing in the EM that covers off the provisions in section 40?

**Mr AG Burke:** No.

**CHAIR:** You have drawn this to our attention, Mr Burke, and we will put some questions on notice.

**Mr AG Burke:** I apologise. I should have raised it in the submission.

**CHAIR:** We will put a heap of questions on notice about this to get some more detail for the public record. I am sure there is an explanation. Proceed, Mr Burke.

**Mr AG Burke:** They were the three points I wanted to make, so beyond that I am happy to address questions, either in relation to the Law Council's submission or the Gilbert and Tobin submission. I think the areas of concern are fairly evident from those submissions.

**CHAIR:** Yes. Why don't you address us on this issue of when an entity registers a business name under the new legislation post 1 July next year. The name is registered around the Commonwealth. Presumably you might have a person operating a business in New South Wales and the registration of the business name has effect across the Commonwealth. My understanding is that is causing some trouble to Gilbert and Tobin.

**Mr AG Burke:** That is right. By virtue of the grandfathering provisions there will be duplication. That is a consequence of the migration of the state and territory registers to a single Commonwealth register. So, like it or not, on day one the register will be replete with duplication. I understand that ASIC proposes to adopt some sort of suffix or prefix or identifier so as to distinguish one from the other.

**CHAIR:** I see, 'N business 1' or 'Q business 1,' if that is the name.

**Mr AG Burke:** Yes, whatever. At the outset, we are going to have that issue.

**CHAIR:** If a business is registered by some sort of suffix or prefix that identifies the state in which it is registered, does that not address the issue of registration—

**Mr AG Burke:** That is what we suggest is an appropriate way of addressing the issue. It should be possible to have Jim's Plumbing Bundoora, Jim's Plumbing Bundaberg and Jim's Plumbing Bunbury. There is no risk of confusion on the part of consumers and people in business if those locality identifiers or other identifiers are permitted to distinguish what are otherwise identical names. With respect, the vast majority of business proprietors who concern themselves with business names are fairly parochial in their operations. I do not claim to have done any research on this, but I suspect it is only a small proportion of business name proprietors who do in fact seek to operate across multiple states and territories. That will address some concern likewise in the franchising sector where it is common practice for a franchisor to permit and often require that the local franchisee takes steps to protect the brand by having registered a business name that is specific to the franchise outlet. I cannot see any vice in that. There are sufficient other identifiers of businesses that avoid confusion—ABNs, ACNs and the like.

**CHAIR:** Do you see the draft legislation as deficient in that respect?

**Mr AG Burke:** It is an iterative process. It could be improved.

**CHAIR:** Yes, everything can always be improved, but are the registration processes—

**Mr AG Burke:** It is needlessly prescriptive in the prohibition about identical business names.

**CHAIR:** What do you mean by 'needlessly prescriptive'?

**Mr AG Burke:** Let me go to the specific section of the bill; the one about availability. Clause 25 says:

A business name is available to an entity if:

(a) the name is not identical or nearly identical to—

et cetera. It does not embrace the possibility of those variants sufficiently.

**CHAIR:** Are you talking about a national franchise like Jim's Mowing, which may have dozens and dozens of separate entities—

**Mr AG Burke:** Hundreds.

**CHAIR:** Yes, within states and across states? What is your complaint about that?

**Mr AG Burke:** It is arguable that the bill precludes that registration of a business name by inclusion of a local identifier. That certainly came through from the question and answer documents and the accompanying material with the legislation.

**CHAIR:** Okay. We will put some questions on notice about that. I see Ms Bray, who is sitting behind you, is shaking her head. We might take some further advice from the department on that issue. The point you have raised has been picked up and will be addressed.

**Mr AG Burke:** If the concern is misconceived, I will be pleased with that.

**CHAIR:** That is right. That is what you are here for.

**Senator BUSHBY:** One of the concerns raised by Gilbert and Tobin, I think, relates to the transitional arrangements and the grandfathering clause whereby if Tony Burke Consulting is registered in New South Wales and somebody else is running a Tony Burke Consulting in Western Australia then that will be permitted to occur in the post business name thing. Internally ASIC would note that one of them is in New South Wales and one of them is in Western Australia but the business name can still operate as Tony Burke Consulting. If Tony Burke Consulting in WA decides to branch out into New South Wales, and this is the concern Gilbert and Tobin raised, they can set up an office of Tony Burke Consulting in New South Wales without actually having identified that they are the Western Australian version for the public, which can cause confusion and also impinge on the goodwill of Tony Burke New South Wales. Do you see that that is a problem? Gilbert and Tobin's suggestion was that Tony Burke Consulting New South Wales when it comes across onto the new register should actually have an identifier that is public, saying they are Tony Burke Consulting New South Wales or a geographic identifier of some sort.

**Mr AG Burke:** I think that is sensible. They also advocate that the data in relation to the business should also include something in relation to the nature of the business, so we have multipliers, which collectively minimises the risk of confusion.

**Senator BUSHBY:** What would the consequences be if a business operating under the same name in a different state quite legally currently did set up an operation in a state that has a business with the same name? What is the downside of it?

**Mr AG Burke:** The vice that needs to be addressed is the potential for confusion in the marketplace. If it is possible by means of a public register to identify a business with sufficient other identifiers to avoid the confusion then the problem is addressed. The identifiers collectively are name, ABN, which will be unique, nature of business arguably if the suggestion of Gilbert and Tobin is adopted, registered address and likewise. There are sufficient other identifiers that collectively converge to minimise that risk.

**Senator BUSHBY:** With the changes that Gilbert and Tobin suggest. Without that, though—

**Mr AG Burke:** There is a higher risk of confusion.

**Senator BUSHBY:** Presumably a small operation in one state could move in and try and take advantage of a large and successful operation in another state of identical name, run some ads saying, 'Ring this number for Tony Burke Consulting and you will get all the benefits that Tony Burke Consulting provides.'

**Mr AG Burke:** That of course would fall foul of the competition and consumer act on misleading and deceptive conduct and passing off and a whole range of remedies.

**Senator BUSHBY:** Surely only if they are deliberately trying. If a business with the same name from another state is trying to get a foothold, surely you cannot say it is not allowed to advertise and say, 'Here we are, we are trying to get a foothold in this new state.'

**Mr AG Burke:** If the business seeks to convey that it has some sort of association with—

**Senator BUSHBY:** No, it is running on its own name and getting the benefit of the fact that there is another business with the same name. Without the geographic identifier that would be possible, I would have thought.

**Mr AG Burke:** That is true.

**Senator BUSHBY:** You also raised issues about accessible public information, which we have had a discussion about with the department earlier in terms of what is available on the business name search. I note that

you say that the SME committee of the Law Council is not convinced that privacy concerns should prevail over transparency and the protection and advancement of consumer protection business accountability. What are the benefits that you see in being able to get that additional information in terms of transparency and consumer protection?

**Mr AG Burke:** The bill itself talks about its objects. The objects are stated clearly to be in part to enable people in business to know who they are dealing with. That is a desirable public policy outcome. We cannot see any good reason why there should be a distinction drawn between home-based businesses on the one hand and other businesses. It should be irrelevant whether the business is based from home or elsewhere. Those with whom the business contracts ought to be able to know who they are dealing with, where they are based and, in the event of dispute, where documents can be served. We tried to conceive of a situation in which privacy or other concerns might warrant separate treatment for home based businesses, but we could not see one. I do not know what the perceived risk is. It is lost on us.

**Senator BUSHBY:** The department told us this morning that the issue is compliance with the privacy principles. The information that is provided to the government should only be used for the purpose for which it is provided. That is no doubt a very good principle. I know that you say that privacy concerns should not prevail over these other issues. From our perspective as legislators, we need to balance up the government's obligation to the privacy of its citizens in terms of the information that it collects against the benefits that releasing that information in these circumstances would deliver. We need to get a good understanding—

**Mr AG Burke:** We would say that the greater good is served by transparency.

**Senator BUSHBY:** I am always attracted to transparency in government. I think that it is a great thing. This is not so much in government. But I quite clearly accept that it advances consumer protection. One of the issues that I raised about this is that, whether it be a home based business or a business with a separate base, if you have a dispute with a business—and, at its core, the reason why you have business name registers is so you know who you are dealing with in the event that you do have a problem—then often that business ends up no longer being at the address that you have and you do not know where to serve documents because they are no longer there. They are going to take it on notice, but I did not get a satisfactory answer from the department as to how you would get the information to serve the individuals behind that business. What process would you need to go through to find that out?

**Mr AG Burke:** As I understand it, there is a two-tiered register. There is a publicly accessible online register, that will have basic information, and a full-fee more information rich searchable register that will hopefully full data available for those purposes.

**Senator BUSHBY:** So it is a full-fee register. Can anyone walk in and get that information?

**Mr AG Burke:** I am extrapolating from my experience with the free ASIC company search—

**Senator BUSHBY:** I think that it is different, but I do not know.

**Mr AG Burke:** on the one hand and the full-fee search, which is much more extensive, that one can obtain through various commercial providers. I am contemplating that something similar to that is in prospect.

**Senator BUSHBY:** You may well be right. You have confused me now, because we will need to explore this a bit further in questions on notice with the department. But the impression that I got this morning was that there was a free search that provided a limited set of information and that the rest of it was withheld other than in very specific circumstances—for example, police and intelligence agencies and others could access it for their legitimate purposes—on the basis that that information was only gathered for the purpose for which it was needed and as such it would not be used for other purposes.

**Mr AG Burke:** In an age in which businesses are increasingly migrating to an online presence and people are working remotely and entrepreneurial activity is often run out of home based businesses, in my view the distinction is unwarranted and the greater good would be served by having full information available.

**Senator BUSHBY:** As I said, I can see the advantages in that. There are certainly benefits in having all the information available. In a way, it completes the purpose of having the Business Names Register in the first place: so that you know who you are dealing with for transparency reasons.

**Mr AG Burke:** It goes to the mutuality of the social licence that confers exclusivity in relation to the name. There should be some—

**Senator BUSHBY:** Yes, that is an interesting point as well. You also raised some issues on transitional arrangements. What were the concerns you had about those?

**Mr AG Burke:** I think those were more from Gilbert and Tobin.



**Senator BUSHBY:** Yes, that crosses over with the name allocation issue.

**Mr AG Burke:** I think it is the same issue that we traversed earlier.

**Senator BUSHBY:** Gilbert and Tobin also suggested there are some advantages in ensuring that the search engine is flexible enough to be able to identify combinations of words.

**Mr AG Burke:** Dr Denim and Denim Doctor?

**Senator BUSHBY:** Yes, that type of thing. Obviously the Law Council would support the need for that.

**Mr AG Burke:** Yes, it minimises the risk of inadvertent applications for names which are going to fall foul of the guidelines. That is an administrative task, I would have thought.

**Senator BUSHBY:** It is, but it is important for the implementation of the bills, if they are passed, to make sure that we do end up with something that is as user friendly as possible and delivers the outcomes in the best possible way. Gilbert and Tobin also raised an issue which probably is not an implementation issue and that is to do with the circumstances in which—

**Mr AG Burke:** Exceptional circumstances?

**Senator BUSHBY:** No, the names can be cancelled. They raised the issue between consent or cancellation as opposed to having both of them.

**Mr AG Burke:** I think they are extrapolating from the concerns about domain name squatting to business name squatting and suggest that there ought be standing to others beyond ASIC to apply for the removal of a business name if it is apparent that it is not being used. I think that is a valid concern and I endorse it.

**Senator BUSHBY:** We will follow that up. We did not have a chance to raise that with the department.

**CHAIR:** Do you have anything else you want to add, Mr Burke?

**Mr AG Burke:** No. The Law Council are pleased that as part of a harmonisation process this has seen the light of day and we encourage its further evolution.

**CHAIR:** Notwithstanding the three issues you have brought to our attention in your preliminary comments and some of the concerns that have been fleshed out in questioning, which we will put to the department in due course, do you still support the passage of the bill?

**Mr AG Burke:** Yes.

**ALEXANDER, Mr Graeme, Head of Compliance and Ethics, Australia and New Zealand, American Express**

**BURKE, Mr Anthony John (Tony), Policy Director, Australian Bankers Association**

**HARDAKER, Mr Ron, Executive Director, Australian Finance Conference**

[11:02]

**CHAIR:** Welcome, Mr Burke, Mr Alexander, and Mr Hardaker. Do any of you wish to make an opening submission?

**Mr AJ Burke:** A brief submission.

**CHAIR:** I note for the record, having confused the previous witness: Mr Tony Burke from the Australian Bankers Association is a different Mr Tony Burke to the previous witness, who was from the Law Council.

**Mr AJ Burke:** Thank you. I am the policy director of the Australian Bankers Association. Thank you for the opportunity to appear here today. I will make a brief statement, and I think my colleagues might choose to add to that.

I would like to point out the bill is a welcome piece of reform. It is going to achieve national efficiency gains and we recognise it as being an important microeconomic reform. Our concern, however, is that it does take away a very important tool that banks and other financial institutions and financial services providers have in the fight against crime and preventing Australia's financial system being used by criminals, and that relates to customer identification. Customer identification and verification programs are absolutely fundamental to financial services businesses; they are required by law, under Australian law and in terms of Australia's obligations to international arrangements.

I understand the committee has a submission from AUSTRAC that sets out the state of play in relation to the law. I will not cover that in detail except to point out that for non-individual customers—that is, business customers—the minimum customer identification requirements are: the full legal registered name; the full address or principal place of business; the date of birth, whether it is a sole trader or a director we are required to verify that; the registered business number; the country formed, incorporated or registered; and the names of all beneficial owners—that is, 25 per cent or above ownership, whether that be domestic or foreign. For each customer type, AUSTRAC rules require verification be based on reliable independent documentation or reliable independent electronic data or a combination of the two. The AUSTRAC submission sets out the standard as to what constitutes reliable in this context. In order to meet the above requirements these reporting entities, under the AML legislation, rely on independent sources of information available from existing ASIC and business name registers to verify the customer details collected. When a company is registered with ASIC, ASIC records pertinent details about the company and issues an Australian company number and an Australian business number. The details collected by AUSTRAC meet AUSTRAC requirements as to information about the company concerned.

In terms of state and business name registration, businesses that are not companies are presently required to register their business names with the appropriate authority. These authorities do vary—and I believe you have received a submission from VEDA on this point—but, generally speaking, they record the business name, the business owner, the nature of the business, the address, the contact details, the name of the individual and the place and date of birth of the individual. The above detail meets the requirements noted for AUSTRAC.

For the proposed National Business Names Register, however, we are concerned that, for example, under section 23, insufficient information will be collected to meet the AML-CTF standard, which is the gold standard for identification in Australia. Under section 33 the register may not include full name, date of birth and home address, but we believe it should. And section 60 requires the excision of crucial information such as the street address, allowing only the suburb. In these circumstances we do not believe a search of the new register will allow verification with a significant degree of confidence for the reporting entity—that is, a bank or other financial services provider—to satisfy itself that the individual or the entity concerned are who they say they are.

**CHAIR:** Thank you, Mr Burke. Mr Alexander.

**Mr Alexander:** On behalf of American express I would like to thank you for the opportunity to appear before the committee today to comment on the Business Names Registration Bill. In our submission we have acknowledged that there are many benefits to be gained from the introduction of a national business names register and, in principle, we are supportive of this reform. The proposed introduction of a national system is a welcome innovation that will assist in reducing red tape and cutting costs for businesses. However, like Mr Burke, we are concerned that, if the register is implemented in its current form, it will adversely impact the processes currently used by reporting entities to comply with the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.

Under this act, reporting entities must have appropriate risk based systems and controls in place to manage the types of money laundering and terrorism financing risks that they might reasonably face. Under the AML rules, reporting entities are required to collect and verify certain types of information from their customers prior to the provision of a designated service. Whilst reporting entities can choose which sources to verify against, it is common for state and territory business registers to be used to verify identification information submitted by customers. This is particularly important when dealing with sole traders and small businesses.

Given that American Express operates in a branchless environment with more and more customers wanting to transact online and demanding 24/7 service delivery, restricting the ability to use the National Business Names Register as part of a suite of electronic verification tools seems inconsistent with not only mitigating Australia's exposure to AML risks, but also broader macro-economic objectives. Our key concern relates to the restrictions on the ability to verify residential addresses and dates of birth of business owners. This restriction appears to be at odds with the existing ability to publicly access those same details from ASIC when dealing with company directors.

We acknowledge that the inclusion of personal information on any public register raises privacy and security issues and we do not seek to dismiss or diminish those concerns. It should be emphasised that we are not seeking the disclosure of information but simply the validation of information that has been provided to us by our customers. Hence, we are only seeking to verify, with the consent of our customers, details we have already collected from them. It is important to highlight that this approach would be consistent with other reforms currently being conducted by the Attorney-General's Department through their proposed documentation validation service and the use of this tool by the private sector for AML verification purposes.

In summary, if we are not able to use the register as a tool to verify an individual applicant's details, we will be losing access to an independent and reliable means of verifying their name, residential and business addresses and date of birth. We are concerned about the impact this is likely to have on our ability not only to meet AML regulatory obligations but also to provide services to our business customers, particularly sole traders and small business.

**CHAIR:** Thank you, Mr Alexander. Mr Hardaker.

**Mr Hardaker:** Senators, I do not have a lot to add to what has just been said. The high-level policy direction was a step forward; down in the weeds it is two steps back.

**CHAIR:** Let us then cut to the issue that you have raised. The three things are the name, the date of birth and the home address of the registrant of the business name. That information is collected in three states at the moment. It will continue to be collected but private organisations like the three that are at the witness table will not be able to access it, even for the purposes of validating information provided by customers. I take it you have put the objections you have outlined to us today to the relevant department in the consultation process to date.

**Mr Hardaker:** No, we only found out about this about 10 days ago, which is when the submissions came in. We had previously responded to the consultation saying what a wonderful thing it was.

**CHAIR:** Until 10 days ago you were unaware that private organisations like yours would be unable to access this particular information?

**Mr Hardaker:** That is correct.

**Mr AJ Burke:** The concerning detail is actually in the regs and we only became aware of the draft regulations in very recent times. We were not part of the formal consultation process.

**CHAIR:** Why not? Why did you only become aware of it 10 days ago?

**Mr Hardaker:** Veda Advantage drew it to our attention because they had become aware of the regulations. As Tony said, this is really down in the weeds in the regs. You would not see it by looking at the high-level structure of the bill.

**CHAIR:** In that case, explain to me why access to the name, date of birth and home address of the proposed business registrant is so critical.

**Mr Hardaker:** We have to verify who is behind the business name to meet our AML-CTF obligations. Just getting a person's name without being able to verify that they are that Ron Hardaker born on 7 February and living at that address means that we have not gone as far as we need to go to meet the AUSTRAC requirements.

**CHAIR:** If Ron Hardaker of ABC Enterprises in New South Wales comes to the NAB branch seeking a loan of a quarter of a million dollars, there are other ways that the officers in the NAB branch would be able to check that he is indeed Ron Hardaker and does live at 16 Smith Street in a particular suburb and his birthday is what he says it is, are there not?

**Mr Hardaker:** There are, but behind the business name you have to also verify him. It is one thing sitting in front of him with a drivers licence, but when you have got the business name there it provides that additional verification to say that is the proprietor of the business name.

**CHAIR:** Do you suggest that your inability to verify via the systems or processes that you have used to date is becoming a cost risk, a business risk, to providers of credit or finance?

**Mr Hardaker:** It is a compliance risk.

**CHAIR:** It is a compliance risk.. I understand that point. But are there other risks?

**Mr Hardaker:** Graeme might be able to shed some light on this, but the credit side of it is multi-crosschecked. It is more the compliance aspect of the business name and who is behind it.

**CHAIR:** Right.

**Mr AJ Burke:** In terms of standard customer identification, again, one can do that by means of documentation. That requires having the individual in front of you or electronic means.

**CHAIR:** If you cannot do it by electronic means as part of the verification process, why cannot the relevant officers at whatever level just require the ability to cite a passport, a birth certificate, a driver's licence or a credit card to prove that this Mark Bishop is the Mark Bishop that is before you?

**Mr AJ Burke:** They can, but it is less efficient. There is the question of customer inconvenience as well, in that one has to ask the customer to present with original documents to the branch or other facility concerned. We are not saying that not having this facility renders our ability to identify and verify unusable, but it takes away an important tool that is available in a very high-transaction environment.

**Mr Alexander:** I think, from a competition perspective, whilst our colleagues here from banks have bricks and mortar, there are a range of financial players out there that operate in a branchless environment. It is increasingly difficult to rely on face-to-face verification in that sort of 24/7 online channel.

**Mr AJ Burke:** Thank you, Mr Alexander. Not all ABA members have extensive branch networks either.

**CHAIR:** I acknowledge that.

**Mr Hardaker:** If a person presents to you as the proprietor of a business name and you need to verify that, where else do you go but the Business Names Register?

**Senator BUSHBY:** That is an interesting point. Just for example, we have Mr Tony Burke from the ABA sitting here. A previous witness was Mr Tony Burke. If Tony Burke from the ABA turns up at American Express and says, 'Here I am; I am Tony Burke. Here is my drivers licence; I am Tony Burke,' and then says, 'I am the proprietor of Tony Burke Consulting'—which is run by the previous Tony Burke—you cannot verify without his date of birth, home address or other information that the Tony Burke standing before you with the driver's licence is the person who is the proprietor of that business.

**Mr AJ Burke:** Correct. I was reminded in travelling here this morning that when I was in grade 4 at Daramalan, which was only a couple of years ago, that there were four Anthony John Burkes in the same class.

**CHAIR:** Is this really an issue to those credit providers and the like who operate solely in the internet world, or is it a concern also to places like NAB, the Commonwealth Bank and finance arms that have clients in suburbs?

**Mr Hardaker:** I would think it would be across the board, for the reason that Senator Bushby just gave. You need to verify the person behind the business name to meet your AML-CTF compliance obligations.

**CHAIR:** For the sake of the discussion, I can accept that argument. I am intrigued by the fact that none of the police agencies, either state or Commonwealth, have sought to raise this point with us. They are not generally shy to draw to our attention deficiencies in legislation that impact upon their ability to carry out their lawful functions.

Often they are on the same sheet as organisations like yourselves in seeking to verify or prove whatever. None of those agencies have thought it of significance to put it into a submission to us.

**Mr AJ Burke:** I have no explanation. Perhaps they are late to the proceedings, as we were, in terms of seeing the detail and the draft regs. Perhaps they have not seen them. I guess also that the financial services institutions are really at the coalface in terms of this customer identification.

**CHAIR:** That is right, and they are the organisations that the AFP and AUSTRAC take a particular interest in. Mr Burke, does the ABA have formal dialogue at industry level with the police associations or AUSTRAC and the like?

**Mr AJ Burke:** With police services?

**CHAIR:** Yes.

**Mr AJ Burke:** We do at the state and territory level and at the Commonwealth level as well, with the AFP. With police services the dialogue is about fraud and physical security—that is, branch attacks, ATM attacks and the like. We have a strong and ongoing dialogue with AUSTRAC on AML and terrorist financing.

**CHAIR:** So you have regular both formal and informal peak level contact on issues of mutual interest. You have not yet raised this issue in those forums with those organisations?

**Mr AJ Burke:** No.

**CHAIR:** I would be interested if you would be able to do that, raise it with the various police and intelligence agencies, because it is a glaring omission that what appears prima facie to be a legitimate concern that you raise with us has not been identified by the organisations you would go to if there was indeed fraud or criminal activity.

**Mr AJ Burke:** Would the outcome of that that you would seek would be a report that this has occurred?

**CHAIR:** You are putting to us that you think the pre-existing legislation provides obligations upon you, which you comply with. You think that the exemptions in the bill before us now provide unsatisfactory exceptions. The enforcing agencies whom you regularly liaise with have not similarly identified that concern, even though you regularly engage with them on fraud, theft and security. I would be interested in their view as to whether they share the assessment that you have put to us this morning, because to date, without in any way belittling your commentary, it is not shared by any other organisation.

**Mr Hardaker:** We only found out about it—

**CHAIR:** That of course is the purpose of exposure draft legislation and discussions like this in public forums—to flesh out issues of concern to interested parties. This discussion now will, I am sure, be drawn to the attention of AUSTRAC and the AFP.

**Mr AJ Burke:** Is AUSTRAC appearing before the committee?

**CHAIR:** No, it is not. They provided us with some information as to the operation of the act that governs them, but they have not put in a submission per se. But you have now raised this issue and put it on the public record and we will seek some commentary.

**Senator BUSHBY:** I am interested in your obligations in respect of businesses that are seeking to open up accounts or financial transactions through your relative members or businesses. Regarding your obligations as a reporting entity, Mr Burke mentioned that there are things like beneficial ownership. There is a list of things that you have to satisfy yourself of before you can start transacting with those businesses, essentially. Would it be fair to say that part of that is establishing the individuals who are holding themselves out as being behind that business are indeed the individuals who are associated with that business? Is that a specific requirement?

**Mr AJ Burke:** Yes.

**Senator BUSHBY:** As I asked about before, the challenge we had with people is that even if they can prove that they are a person of a particular name they may not be the person of that name who is behind the business, and current arrangements, at least within three states, enable you to at least find some corroborating evidence using other details like home address or date of birth that that person appears to be the same person.

**Mr AJ Burke:** Yes.

**Senator BUSHBY:** Your concern is that you will not be able to do that without this. What do you do in those states where you do not have access to the date of birth?

**Mr AJ Burke:** We revert to the document based method where possible.

**Senator BUSHBY:** So there are alternatives?

**Mr AJ Burke:** ASIC is still available.

**Senator BUSHBY:** Yes, if the business is a registered company. But if it is a sole proprietaryship or a partnership—

**Mr AJ Burke:** There are, for example, bilateral arrangements with births, deaths and marriages agencies and a number of the jurisdictions as well. There are other sources of information, but they are not as convenient and presented in an aggregated form, as is the information on the Business Names Register.

**Senator BUSHBY:** Even if you have access to births, deaths and marriages, all you can confirm is that Tony Burke, who says he was born in 1956, was born in 1956. You still cannot put that link to the business unless you know that the Tony Burke who is involved in that business was also born in 1956 on a particular date or that his home address is the same.

**Mr Hardaker:** I am trying to visualise the matrix of which states did what. I thought in the more populous states we could do both matches.

**Senator BUSHBY:** Date of birth apparently is New South Wales, Queensland and South Australia but not Victoria, Western Australia, Tasmania and, presumably, the Northern Territory.

**Mr Hardaker:** They have the address, as I recall. I would have to go back and see what our members do in those states.

**CHAIR:** Could you take on notice how your members in Victoria, Western Australia, Tasmania, the ACT and the Northern Territory verify the material when they have to do it by means separate from that which is done in the other three states? That would be very useful information.

**Mr AJ Burke:** We can present how major banks do it as opposed to those who have an internet based business model.

**Senator BUSHBY:** We are told by the department that the reason they do not feel this information should be released to you or otherwise on a business name search is because of the need for the Commonwealth to comply with the privacy principles. Part of that is that the information can only be used for the purpose for which it was obtained. As I understand it, the purpose for which it is obtained is to for people interacting with businesses who are registered using that name to have an understanding of who is behind the aliases that are used for the business names. If a business is seeking to interact with you or your members and you have an obligation to understand who is behind them for these purposes, it seems to me that that is consistent with the purpose for which that information was provided. I do not think you could argue with that.

**Mr Hardaker:** No.

**Senator BUSHBY:** We have sought a copy of the legal advice the department have received. I do not know whether they have looked at that issue from that perspective or not. If we can get hold of that legal advice, I think it would be very interesting. It seems to me that the purpose for which you want that information is consistent with the purpose for which it was provided, and that is so those who interact with a business running under an alias know who is behind it.

**Mr Hardaker:** Yes. It is hard to think of a more consistent use.

**Senator BUSHBY:** I think you have raised some pertinent issues. I think all three of you agreed that it is a good bill, and I do not think the purpose of what it is trying to achieve is a good thing, but it does appear from the basis of some of the submissions that there may be some teething issues that we are looking at. I thank you for your assistance today.

**CHAIR:** Any other comments by the witnesses?

**Mr AJ Burke:** Just one final comment: a bit of a sidebar on the beneficial ownership matter that has come up in conversation. The requirements in relation to beneficial ownership are only going to get tougher. The international regulator for anti-money laundering, FATF, is reviewing its ultimate beneficial owner test, as we understand it. There is another piece of legislation emanating out of the states called FATCA—Foreign Account Tax Compliance Act—the purpose of which is essentially to stop US persons from avoiding tax but the ramifications of which are that banks and other financial service institutions are going to have to determine a US person status of all their customers, including beneficial ownership.

**Mr Hardaker:** It is already law.

**CHAIR:** That is already American law? And it is expressed to extend to the whole world?

**Mr AJ Burke:** The whole world.

**CHAIR:** Do we accept that it is binding on companies here?

**Mr AJ Burke:** We are dealing with the government through Treasury on this matter. They are working with us on the implementation detail. I am not sure there is a government position on the legislation as a whole but rather on aspects of it.

**CHAIR:** It is an interesting proposition that, because American congress passes a law and presumes to extend it to its companies or entities registered in the United States that work around the world, their legislation applies in other jurisdictions. You are saying whether it does or does not.

**Mr AJ Burke:** It does because there is a nasty sting in the tail, which is a withholding sanction. If entities do not meet the FATCA requirements a 30 per cent withholding is applied to their gross receipts and payments.

**CHAIR:** How does that interact with the bill that is currently before us?

**Mr AJ Burke:** Not really, except to say that my remark was that this issue about identifying beneficial owners is only going to get tougher for banks, which is why we want to make sure—

**CHAIR:** You want to do the internet based verification process.

**Mr Hardaker:** I want to add one thing to my earlier comments. The current provisions in those states where you can cross match a business name with the proprietor's details are quite often delivered through third-party intermediaries—the credit bureau or service providers—and that is part of the status quo we would also like to retain because nobody necessarily wants to set up their own interactions with the new register.

**CHAIR:** Thank you for your attendance today.

**Proceedings suspended from 11:30 to 11:40**

**ALLISON, Mr Matthew John, Head of Data Management, Veda Advantage**

**STRASSBERG, Mr Matthew Adam, External Relations, Veda Advantage**

**CHAIR:** We welcome Mr Strassberg and Mr Allison from Veda Advantage. Do you have some opening comments you wish to make?

**Mr Strassberg:** Thank you very much, Chair. Veda is an information economy company with its heart in the area of consumer credit reporting. We also provide a lot of fraud and credit assessment products. With me today is Matthew Allison, who has a great deal of expertise in the area of matching a name to the correct individual. We thought that was important. The proposed operation of the Business Names Register has some serious implications, which we have put in our submission, and we are happy to further expand on that today.

You have probably heard quite a lot on anti money laundering and counterterrorism. I also wish to touch on the role that business names have in the area of assessing for credit and for prevention of fraud. Having the name of the entity available in the Business Names Register, be it an Alan Bond or a Bob Jones, the challenge is then matching that to the right Alan Bond or the right Bob Jones in question. What I have heard so far today from the department and in discussions, and from what I can see from the legislation, is that people signing up for a business name gives consent. That is important to any concerns that have been expressed about privacy and privacy principles. At the moment there is a great deal of information available from the state business names registers that will not be continuing, and we in part accept that. What we are finding a difficulty with is that the use of the business name and the information held on it can assist in correctly matching the person inquired for to the information on the Business Names Register, and that can be done in a manner that is fully adherent to the Privacy Principles and is practised elsewhere in government. I am happy to outline the concept of match/no match, which I think was touched on earlier by Senator Bushby. That avoids problems with disclosure and it is a solution that is available which we would be urging should be taken up.

Could I just point out that when COAG resolved to have a national business names register the intergovernmental agreement, which is now a few years old, did talk about maintaining the present level of service by the Commonwealth's National Business Names Register. It states that it will not be less than the levels of service currently provided in the state system, and that is not occurring. Expressly recognised under part 5 of the IGA, under 'Services to be provided nationally', is an extract service for brokers on commercial terms agreed with individual brokers. So there was explicit recognition at that point about both the level of service and about the role that business names have in the information economy. Indeed, under 'Levels of service' at 5.4 it says:

The Commission will use its best endeavours to, at least, maintain existing service levels provided by States and Territories agencies ...

We do not feel that has occurred.

**CHAIR:** Is the phrase 'levels of service' defined in the IGA? Levels of service, arguably, means provision of a registration system or an office system imposed to a particular subset that you—

**Ms Strassberg:** Indeed; I take your point. On that, if it is not defined you would have to look at not only what is currently provided but its role more broadly. That role has been recognised in areas like the AML/CTF. It has also been recognised more broadly in other areas related to responsible lending, and I have some good examples of how it can be used to help prevent fraud perpetrated on small and medium sized businesses. I think I have probably wandered from my opening statement.

**CHAIR:** Why don't you return to it.

**Ms Strassberg:** I am happy to take further questions at this point, but Mr Allison has some interesting data on the challenge of matching the name to the correct person. One thing the department touched on earlier was the privacy principles. I know the regulations are not before the committee, but there has been consultation on them. We would point out that the legislation is structured such that neither the regulations nor the legislation dictates the manner of search of the register; they refer to disclosure. In coming before the committee today, we are not actually seeking an amendment to the legislation. Indeed, as I see it, there is nothing preventing a search of the register based on match/no match—on submitting a name, date of birth and a residential address and, if that matches, you then get a return for that information. So there is not actually a need for the committee to make a finding on that; it seems to be more a sense of the operation as seen by the department, which, of course, ASIC will then have some obligation to follow. That is what has brought us here today.



I do not know how widely the intended search facility is recognised, but certainly my conversations with the department would have a system whereby if you wanted to find business names attached to Bob Jones the system would then return all business names for all Bob Joneses in Australia. I have raised that as an example because I cannot see how that would be helping any privacy clause with that level of disclosure. We are not interested in business names for every Bob Jones; we have a particular Bob Jones and we are doing a credit assessment. That credit assessment could be as simple as for a small business supplying coffee machines, coffee beans and the like. It does credit checks and will want to check a variety of sources and one of them will be the Business Names Register. These are true examples. What can happen with that \$40,000 coffee machine is that the debtor goes bust and closes up, the machine disappears and that creditor has lost a \$40,000 piece of equipment. That is the sort of credit risk assessment that is far more important for a small or medium business providing coffee beans than it is to much larger financial institutions that have much greater wherewithal to do due diligence.

I have Matthew Allison here today. We prepared some examples which included one member of the committee, Senator John Williams, who is not here today, but nevertheless I think it goes to the point of the problem of multiplicity—I do not know if multiple names is right but the recurrence of names.

**Mr Allison:** The frequency with which a name appears in our society is probably what it is about.

**CHAIR:** Mr Allison, why don't you give us the stats you have, put them on the record and perhaps supplement that in writing afterwards so that we can more properly consider it. Having done that, you then might particularise your concerns as credit providers or credit checkers with both the proposed bill and the regulations and, thirdly, provide remedies, if you are able, to the shortcomings you identify. Can we go through that three-part process?

**Mr Allison:** Sounds good.

**CHAIR:** Please continue.

**Mr Allison:** First of all, the statistics that Matthew is referring to relate to the incidence of certain names across the Australian population. Working for the credit bureau as I do, I have access to that information in a fairly unique way. An example of that is the name 'John Williams' appears 10 times in three post codes in Australia. If we were to simply try to match on the basis of a name and postcode and your name is John Williams and you happen to live in Toowoomba, Charleville or Bundaberg, we are going to have trouble identifying who you actually are. That is one example.

**Senator BUSHBY:** Senator Williams of course does not go by 'John'. He goes by 'Wacka'.

**Mr Allison:** I have not pulled any statistics on 'Wacka Williams'.

**Senator BUSHBY:** I reckon he would be unique in that regard.

**Mr Allison:** Thank you for the information. There are 379 suburbs in Australia that have two or more instances of a John Williams living in them. As a minor example, that would be one of the barriers we have to matching accurately on the basis of name and postcode alone.

Another example: 'Mark Bishop' is a less frequent name but there are ten suburbs in Australia that have two instances of a Mark Bishop living in them. So the chances that we might pull back the wrong Mark Bishop or information for two Mark Bishops should one of those Mark Bishops apply for credit in one of those suburbs is obviously heightened if that is the only information we have to go on.

There are about 170,000 cases in Australia where two people with the same name live at the same address, which is quite a lot. That is most commonly because parents have an unfortunate way, from my perspective, of naming their children after themselves. Our analysis of statistics provided by births, deaths and marriages in the Northern Territory and also I believe Queensland indicate there is between 0.2 and 0.5 per cent incidence of people having exactly the same name and exactly the same date of birth. Once again, if you were to use any of these components in isolation, a name and a date of birth for instance or a name and an address alone, it is possible that you will have an adverse match result—by that I mean you will not match correctly the individual you are trying to match to.

They are the statistics that Matt was referring to. The issue currently is that, as I understand it, the legislation does not allow birth date to be used when matching to a proprietor. As those statistics suggest, we believe that will have an adverse effect on matching and coincidentally an adverse effect on the privacy of the individuals concerned. Matching is one of those things that is a bit of a catch 22. In order to protect someone's privacy you want to gather as little information about them as possible, but in order to protect their privacy you actually need to gather as much information as possible to match correctly to that person and not include someone else's history with theirs. So it is problematic.

The remedy we would suggest is the ability to use a name, a date of birth and an address, preferably a residential address, during the matching process to ensure that we match accurately to the person being inquired about. Does that summarise it?

**Mr Strassberg:** That summarises it well, including the remedy available, which is match or no match. That is not just something that Veda is coming here suggesting, it is also a practice of the government's Document Verification Service, which has been going since 2005-06. That is used between departments to ensure privacy is met and to ensure that information can be matched up. If it is used by the DVS, I would suggest that the privacy implications of it cannot be too great and in fact the government is considering, as I understand from media reports, opening that up to private sector access. Moving to the efficacy of the Business Names Register, the reality is that it will have a larger life than just trying to find who is behind a business name. That has been recognised by the financial ombudsman service in terms of responsible lending in low document loans, where they talk about reasonable inquiries and make reference to being able to confirm the length of time an applicant has been in business. The reality is that datasets do have a life greater than what might originally have been intended. That has been the case with business names, where there is substantial information on the state registers. If you look at something even as simply as a driver's licence, does anyone really still believe the notion that a driver's licence is simply an authority to drive? The reality is that people produce and are required to produce their driver's licence in a whole range of situations that relate to the verification of their identity. Similarly, the passport is very often asked for as a form of identity not just as an authority to travel.

We believe that match/no match is privacy enhancing. Also, the use of the business name register beyond what has been described as its sole purpose will be a reality. It has been the way with the business name registers in the states and we believe that that should be permitted to continue.

I notice that there is a green paper on national credit reform about extending responsible lending obligations to small business. That green paper has been out for some time—it was released back in July 2010. There is a staged response. But if there is that outcome to extend part or all responsible lending obligations then that will include verification of information provided. The proposed search facility would not encompass that.

The insistence of the department that business names be ascribed a solitary purpose is to take a bonsai approach to information. It is an artificial constraint. It is one that will inhibit the ability to detect potential fraud, which will hurt those small and medium enterprises that need to do much more diligent trading history report checks than in fact what larger businesses do. That has certainly been the Veda experience. The top 30 users of our most in-depth trading history reports are in fact businesses engaged in providing equipment in the construction area, food or smaller pieces of equipment—such as photocopiers, coffee makers; anything of that nature—rather than larger entities, which tend to want to undertake a much more simple level of verification. That is because the larger entities have the capacity to do it in house. Your smaller businesses cannot. They are far more reliant on what they can source from someone like Veda.

**CHAIR:** Thank you for giving us quite a bit to think about. How do you operate currently in Western Australia, Victoria, Tasmania and the two territories, where they do not have that provision of information in their business registration systems?

**Mr Strassberg:** Where they do not provide date of birth and the like?

**CHAIR:** Name and home address—yes.

**Mr Strassberg:** On the capacity in those states, there is other information available on their systems. I put this in my submission. In those states, there is more limited information available beyond the name of the proprietor. But there are other data sources that potentially you can then match against. As you can see from the Veda submission, there is substantial other information made available. I can certainly can further and better particulars on how we match in those smaller states.

**CHAIR:** We would be interested in how, in those three states and two territories, you and your members or like companies operate and get that information to carry out the tasks that are requested. We already know how they do it in New South Wales, Queensland and South Australia.

Arising from your comments there, a lot of information that is currently obtained from other repositories will continue to be available.

**Mr Strassberg:** By which you are referring to things like court default judgments or—

**CHAIR:** Yes.

**Mr Strassberg:** Any good assessment of risk relies on information from a variety of sources rather than one single source. You get much greater integrity to the whole system by being able to source it from a variety. If you

are looking at something like the Business Names Register, apart from the fact that it has a specific role in anti-money laundering and counterterrorism, if you are looking in terms of responsible lending, it does relate back to the provision of an ABN. The amount of information available on a business name is fairly limited in itself. In fact, it just goes to name and suburb. So, once again, those other sources can face similar issues for us in terms of data matching. I do not know if withdrawing information is ever a help. Whether information gets used is one question; whether it is actually available is another. You can look at the experience in the United States, where quite a lot of information was available to say, 'This is a risky lend.' Whether people paid attention to it is another matter. We always use the analogy of seatbelts. Just because not everyone uses a seatbelt is not an indicator that they should be removed from cars.

**Senator BUSHBY:** On the 'match/no match' thing that you are talking about, firstly you are saying that nothing that you have seen in the exposure regulations would prohibit that?

**Mr Strassberg:** That is correct.

**Senator BUSHBY:** And what you are talking about there is where you say, 'Here are the details of a particular individual; can you indicate whether you have a match or not?' And that might include the business name.

**Mr Strassberg:** Correct.

**Senator BUSHBY:** And they will come back and say, 'No, there is no match.' So if you have Matthew Strassberg recorded as being born on a certain date, living at a certain address and running a certain business, you give that to the Business Names Register and they come back and say, 'Yes, that's right,' or 'No, that's not right.'

**Mr Strassberg:** Correct.

**Senator BUSHBY:** And that is all you would get back. They would not be providing you with any information.

**Mr Strassberg:** That is quite right. There is no disclosure.

**Senator BUSHBY:** The only disclosure that is occurring is from you to them.

**Mr Strassberg:** Correct.

**Senator BUSHBY:** Then it is your issue if that is an issue or not. As you said, there is no impediment to that under the current regulation.

**Mr Strassberg:** No, and I think that probably goes to why there was not more concern raised earlier, because on my initial reading of it I thought, 'It doesn't talk to search,' and that we would be able to do match/no match. It was when I sought further information—

**Senator BUSHBY:** And that would be sufficient for Veda's needs?

**Mr Strassberg:** Yes. If we can use name, date of birth and address—and within that of course you would want to establish with ASIC what sorts of rules would be in place; you do not want to get a no match on the basis that instead of 'street' you included 'road' or instead of 'John' you used 'Jack' or 'Wacka' or those sorts of variations within a name. But those are all things that Mr Allison—

**Senator BUSHBY:** That can be worked out. But ultimately there is no disclosure—

**Mr Strassberg:** No. That is correct.

**Senator BUSHBY:** so any issues of Privacy Principles you would think would not be transgressed.

**Mr Strassberg:** Correct. On that, the new Personal Property Securities Act does have detailed search criteria, and that refers to name and date of birth. They do not have address, but they do have name and date of birth. They have also got serial number in there, so that helps dramatically lift the match rate.

**Senator BUSHBY:** You have raised it specifically in the context of credit ratings, but you also raised in your submission the issue of compliance by reporting entities in terms of their obligations. Do you think that the match/no match would be sufficient to satisfy their obligations?

**Mr Strassberg:** Certainly in the products and services Veda provide for these entities, we have employed match/no match in a variety of data services, and this would be one of them that—

**Senator BUSHBY:** You assist financial entities to comply with their obligations as reporting entities?

**Mr Strassberg:** Yes, as a third party. We act on their behalf.

**Senator BUSHBY:** So the match/no match would assist them in complying with their obligations?

**Mr Strassberg:** Yes. It is a measure we have employed in several date fields and we could do it with this.

**Senator BUSHBY:** There are requirements in place currently, and there will potentially be more requirements with some of the things you have mentioned, where government expects the use of the information that is currently in the business names to be used for other purposes. For example, with consumer lending, they need to make reasonable inquiries about the length of time somebody has been in business, and presumably the Business Names Register would be within contemplation of where they might go to make those reasonable inquiries.

**Mr Strassberg:** Precisely. With one piece of legislation comes an expectation of fulfilment. The provision of paper copies was alluded to earlier. I was not present for the presentations from the ABA or the AFC, but the thought of saying to someone they should come in with their 100 points worth of paper work and the like hardly befits the title of innovation. Things are done online with greater accuracy and greater certainty than someone presenting a document that may or may not be a valid document.

**Senator BUSHBY:** And even if somebody can verify that they are John Williams, because they have turned up with identification papers that satisfy the reporting entity that they are John Williams, it does not necessarily mean they are the John Williams associated with the business they are looking into. You need to cross-match other data with the business itself and the John Williams who is there and his home address and date of birth to make sure it is the same John Williams.

**Mr Strassberg:** That is exactly right. You have got a good grasp of the challenge that is facing us.

**Senator BUSHBY:** The government is already considering an expectation that information would be accessed from various directions—whether it be consumer lending or the other examples you have used. There is an inconsistency then if government says you cannot access this information when other arms of government are probably expecting that you would be.

**Mr Strassberg:** It is quite contradictory for us to be having certain arms of government moving in another direction. The approach that is being taken here does not seem to be reflected in the legislation or the regulations. The expectation that has been set is inconsistent with its application elsewhere.

**CHAIR:** You referred to the Personal Property Securities Act. What does that apply to?

**Mr Strassberg:** The PPSR will be replacing things like REVS, the Register of Encumbered Vehicles. It is a national encumbrance register that is supposed to be starting at the end of October. It has been in development for, I think, more than 10 years. In part it will involve an easy capacity to find out who has got encumbrance on a device or an object—that could be a car, or a painting—

**CHAIR:** It could be real property or chattels?

**Mr Strassberg:** Yes.

**CHAIR:** And does it have provision for business registration?

**Mr Strassberg:** No, it does not. It is about goods.

**CHAIR:** And ownership entitled to the goods?

**Mr Strassberg:** Correct—and whether there is any encumbrance on it, such as with the coffee machine referred to earlier.

**CHAIR:** That register presumably contains the name and home address of the owner?

**Mr Strassberg:** I have only brought along the search criteria and the fact that it does have names and dates of birth. I would have to check further to see what the actual register then holds within. I was simply referring to the manner in which it could be searched, which includes a serial number and the grantor's name and date of birth.

**CHAIR:** Yes, but the manner of searching is conditional upon there being a register containing a certain amount of material. You have raised two issues. You have raised conflicting Commonwealth legislation. Of course, the Commonwealth itself data-matches a whole range of information between departments, much of which is about fraud relating to social security and unemployment benefits.

**Mr Strassberg:** The point was made earlier about consumer affairs and other agencies being able to access the register. The point I would make is that private organisations are the ones who are making the loans and providing the goods. It is all a bit after the fact if you are going to rely on a search from an office of consumer affairs or ASIC.

**CHAIR:** Particularly if you are forced to do it in other ways anyway, which you will. You currently do it in other ways in at least three and potentially five of the jurisdictions. Do you have any further contributions?

**Mr Strassberg:** No, we thank the committee for its time.

**CHAIR:** Thank you.

**Committee adjourned at 12:11**