



**COMMONWEALTH OF AUSTRALIA**

# **JOINT COMMITTEE**

of

**PUBLIC ACCOUNTS**

**Reference: Internet commerce**

**CANBERRA**

**Monday, 20 October 1997**

**OFFICIAL HANSARD REPORT**

**CANBERRA**

## JOINT COMMITTEE OF PUBLIC ACCOUNTS

### Members

Mr Charles (Chairman)

Mr Griffin (Vice-Chairman)

Senator Coonan	Mr Anthony
Senator Faulkner	Mr Peter Baldwin
Senator Gibson	Mr Beddall
Senator Hogg	Mr Broadbent
Senator Watson	Mr Fitzgibbon
	Mr Georgiou
	Mrs Stone
	Mr Vaile

The terms of reference for this inquiry are:

The Committee shall inquire into and report on the impact of internet commerce on:

- (1) the administration of the Australian taxation system and the implications for Australia's tax base;
- (2) the international competitiveness of Australian businesses, particularly small and medium enterprises, with the emergence of the internet as a retailing medium; and
- (3) government industry assistance programs, Customs administration, and the quality and accuracy of Australia's economic and trade statistics.

In conducting its inquiry the Committee will consider:

- (a) the expected growth in internet commerce;
- (b) the findings of and solutions proposed by the Task Force on Electronic Commerce established by the Commissioner of Taxation;
- (c) the quantity, value and type of goods entering Australia under the duty and sales tax free limit, and the commercial entry thresholds, administered by

the Australian Customs Service;

- (d) the appropriateness of the existing duty and sales tax free limit, and the commercial entry thresholds, referred to in paragraph (c) and the implications, costs and benefits of any alteration to these limits and thresholds;
- (e) the commercial opportunities (both domestic and export opportunities) afforded to Australian firms by the growth in internet commerce;
- (f) the current frameworks for consumer protection and the protection of intellectual property;
- (g) the opportunities for Commonwealth agencies to improve services to the business sector and to the general public arising from growth in internet commerce;
- (h) the extent to which the Government's potential responses to the growth in internet commerce are affected by international agreements or conventions; and
- (i) the policy approaches being taken by other countries and the scope for international cooperation.

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JOINT COMMITTEE OF PUBLIC ACCOUNTS

*Internet commerce*

CANBERRA

Monday, 20 October 1997

Present

Mr Griffin (Acting Chair)

Senator Coonan

Mr Anthony

Senator Gibson

Mr Beddall

Senator Watson

Mr Fitzgibbon

Mrs Stone

The committee met at 9.40 a.m.

Mr Griffin took the chair.

**ACTING CHAIR (Mr Griffin)**—I call to order this meeting of the Joint Committee of Public Accounts, which will now take evidence as provided for by the Public Accounts Committee Act 1951, and I declare open the first public hearing of the Joint Committee of Public Accounts inquiry into Internet commerce.

The inquiry will focus on the international competitiveness of Australia's small and medium enterprises, administration of the taxation system and the implications for Australia's tax base arising from the dramatic increase in the volume of commercial transactions now occurring via the Internet. Currently, the global value of goods and services transacted over the Internet is \$3 billion. By 2000 this is expected to grow to around \$100 billion to \$150 billion.

Countries around the world are examining the potential of Internet commerce and developing appropriate strategies to maximise their competitive positions. Primary among those is the recent paper by President Clinton entitled *A framework for global electronic commerce*. It is vital that Australia be at the forefront of these developments by confronting the challenges and embracing the opportunities created by Internet commerce.

The inquiry will explore some of the key issues that are beginning to emerge as Internet commerce expands. For example, Australia's small and medium sized enterprises will be exposed to greater competition from overseas retailers advertising their goods and services on the Internet. At the same time, Australian SMEs will be able to expand their market share in the same way.

A growing trend exists for Australian consumers to purchase goods and services from overseas retailers, via the Internet, and avoid duty and sales tax. Currently, goods entering Australia are not subject to sales tax if they are below a \$50 duty and sales tax free limit and the value of the goods is below \$1,000 for goods imported by post and \$250 imported otherwise than by post.

An increase in the volume of imported goods not subject to duty and sales tax will have implications for customs administration and for Australia's tax base if there is excessive revenue leakage. In addition, there is a potential impact on the trading environment for locally based companies trying to compete against international traders able to avoid sales tax liabilities.

In addition to investigating and making recommendations on these issues, the JCPA will consider the current frameworks for consumer protection and the protection of intellectual property; government industry assistance programs; and the opportunities for Commonwealth agencies to improve services to the business sector and to the general public arising from growth in Internet commerce.

The JCPA will conduct further public hearings in Canberra later this month and in Sydney in early November. Today the JCPA will take evidence from the Jewellers

Association of Australia, the Attorney-General's Department and the Australian Customs Service.

I refer members of the media who may be present at this hearing to a committee statement about the broadcasting of proceedings. In particular, I draw the media's attention to the need to fairly and accurately report the proceedings of the committee. Copies of the statement are available from secretariat staff present at this hearing.

[9.43 a.m.]

**POCKLINGTON, Mr Colin John, Industry Representative, Jewellers Association of Australia, PO Box 282, Deakin West, Australian Capital Territory 2600**

**REEVES, Mr Chris, Executive Director, Jewellers Association of Australia, PO Box 282, Deakin West, Australian Capital Territory 2600**

**ACTING CHAIR**—Welcome to today's hearing. We have received a written submission to this inquiry from you. Do you wish to present any additional submissions or make an opening statement to the committee?

**Mr Reeves**—Mr Chairman, if I may I would like to make a brief opening statement to go along with the submission that we presented to you, just to emphasise one or two points. The Jewellers Association of Australia is one of the oldest associations in the country. It is more than 60 years old. We represent the bulk of Australia's jewellery industry, which comprises not only retailers but also wholesalers and suppliers in various forms.

The subject of the inquiry is electronic commerce and Internet trading. As an industry and as traders, our members generally welcome competition, and we acknowledge the opportunities that exist with Internet trading and electronic commerce. However, members of the Jewellers Association at the same time find themselves potentially at a huge disadvantage with Internet trading, because of the wholesale sales tax system that obtains in this country—particularly relating to jewellery, when the sales tax rate is 32 per cent.

Consumers can purchase items through the Internet at a hugely reduced rate. We have some examples which we can produce for you in a while. If you are a consumer and you are purchasing items through the Internet from, say, the United States of America, you are not paying 32 per cent sales tax. If you are a consumer, we would argue, why would you go to your jeweller in the high street when possibly, potentially, you can get the very same item through the Internet, it is simply mailed to you and you can be paying several hundred dollars less for that item?

In our view, this represents an immense threat to Australia's jewellery industry. The extent of that threat we do not yet know, quite simply, but potentially it is a huge threat. Currently, without Internet trading we estimate that about 10 per cent of domestic sales of jewellery is already lost to overseas sources, where the products are cheaper.

So we think that there is a threat to the Australian jewellery industry. We think that there are jobs at risk, and we think that our sales tax regime is one reason why there has been no growth in Australia's jewellery industry for the last eight years. There have been closures in the last five years of some 767 jewellery stores in Australia because of



this lack of growth, and we fear for the future against Internet trading. We are worried that there will be more closures and more losses of jobs.

The biggest single thing that we think Australia can do in terms of the jewellery industry to combat the threat of Internet trading is to reduce quite dramatically the rate of 32 per cent in sales tax on jewellery. We contend that jewellery is no longer a luxury item. I would suggest that probably everybody in this room is wearing an item that was purchased from a jewellery store, whether it be a ring or a watch. All these things are taxed at 32 per cent, and you can get them overseas much more cheaply.

We believe also that Internet trading poses a threat to consumers, because they will not be able to get the guarantees as to workmanship and quality that they can currently get if they shop at a jewellery store in Australia. These guarantees relating to goods purchased on the Internet will simply be worthless. We propose in our submission a form of registration of Australian businesses, which we think would give some guarantees as to quality, workmanship and so on, and protect the rights of consumers.

That is really all I wanted to say at this stage in relation to our submission. We would be happy to answer any questions you may have.

**Mr FITZGIBBON**—Are you in a position now to provide us with those examples you were talking about, in terms of the relative tax burdens?

**Mr Reeves**—Colin has some examples of watches.

**Mr Pocklington**—There are many sites already. You can basically buy anything you want, of any product in any area. As of Friday I found a number of sites in America, Denmark and other places. This one is from a site called Watchsource, in America. It is a Seiko Chronograph watch, of a particular model number. The retail price is \$US550, but the price you can buy it for over the Internet is \$US357. Actually, I also found the same watch on another site discounted even further to \$US275. The recommended retail price in Australia is \$750.

**ACTING CHAIR**—Is that US dollars or Australian dollars?

**Mr Pocklington**—It is \$750 Australian. That is one. Another is a Citizen watch, a Citizen Promaster. The US retail price is \$US275 but you can buy it over the Internet for \$US178. The Australian retail price is \$599 Australian. From the research that I have done, it appears that you can basically buy anything between 30 and 50 per cent more cheaply. It is not just jewellery and watches; CDs is obviously a topic that is there now. But that is the relationship.

I believe there are two reasons for it. One is what I call a punitive rate of sales tax. Although Chris has said that it is 32 per cent, you need to keep in mind that the tax

department has various formulas, starting from manufacture and wholesale, with all these uplift factors. With a piece of jewellery, if we have manufactured it—in other words, got the stone and mount and put them together—in Australia and we bought the stone from overseas, the actual true, effective rate of sales tax is as much as 41 per cent. And it is not just in our industry. It is not just the straight rate; there are so many uplift factors through the tax act that the effective rate is much more than the standard published rates.

**Mr FITZGIBBON**—Excuse my ignorance, I am still a bit confused. When I buy that watch in the US, I do not pay any US sales tax. Is that correct?

**Mr Pocklington**—If you buy it in the US, I believe that in some states there may be a small retail tax.

**Mr FITZGIBBON**—So, generally speaking, the US tax does apply?

**Mr Pocklington**—Yes, and I—

**Mr FITZGIBBON**—But in almost all circumstances it is much less than our rate would be in Australia?

**Mr Pocklington**—Without a doubt. From my knowledge, the retail taxes in the United States are usually between a couple of per cent and 10 per cent.

**Mr FITZGIBBON**—Why is it, then, that I can buy the watch at a much lower price than a US consumer could—simply because of the nature of the retailer, the economies of scale? You said that I could buy that watch on the Internet much more cheaply than I can actually buy it in the US. Is that what you said?

**Mr Pocklington**—No, sorry, I must clarify that. An Australian consumer can buy that watch from an Internet site much cheaply than an Australian consumer could buy that watch in Australia. The American consumer could still buy that watch in America for the same price. I must clarify that.

**Senator GIBSON**—Mr Reeves, you said that the Australian market for jewellery has been static for the last eight years. What has happened globally?

**Mr Reeves**—In some parts of the world it varies. In some parts of Europe it has been growing but quite slowly. In the United States there has been reasonably slow growth until the last couple of years, when my understanding is that growth has been quite good. I could not put a percentage on it, I am afraid. In the rest of the world the jewellery market has been growing, albeit at a slow rate, whereas ours has been actually going backwards.

**Senator GIBSON**—The point I am getting at is this: standing aside and looking at

the whole globe, is the Australian market for jewellery unusual, or are there many other countries that have experienced static growth in this industry?

**Mr Reeves**—Ours is unusual, in that we are going backwards and the rest of the world is not.

**Senator GIBSON**—Secondly, with regard to Internet trading, because of people's concern about the risk of trading electronically internationally, would people not tend to buy things with well-known brand names rather than general costume jewellery? Is that what is happening?

**Mr Reeves**—I would like Colin to answer that question.

**Mr Pocklington**—That is a very good point. The initial trading on the Internet was almost entirely on software. The next step was extensively on books and CDs, because people knew exactly what they were getting and the only issue is the price. And that is how it has developed.

There are currently sites throughout the world where you can buy anything. You can buy second-hand prestige cars. You can buy anything. Gradually, we are starting a process now where people are getting braver about trading on the Internet. They are going to extend and it is going to become a truly global marketplace, I believe, in all goods other than those that are basically perishables. Anything that you can buy that you are willing to wait a week for, you can buy cheaper than you can in Australia.

**Senator GIBSON**—But I raise again the question. Take costume jewellery, for instance. Is anyone going to take the risk, sight unseen, if you like, compared with going down to the shopping mall and actually seeing the product that you want?

**Mr Pocklington**—On costume jewellery, I would see fewer sales happening over the Internet. It is a much lower price point and there is a greater degree of impulse purchase—they want it now for something they are going to be going to this weekend. I think that is right.

**Mr Reeves**—A lot of my members are a little bit slow, I might say, in understanding the potential of the Internet. They say that their customers want to come into the store to see the piece of jewellery and touch it and put it on. They think that the Internet will not affect them. Our response as an association to that has been to say that for 90 per cent of their customers that is probably true. They do want to go into the store and look at it and touch it and wear it and so on. But there is a percentage of people for whom that is not true. People are buying jewellery at the moment from the home shopping channels and from the Internet. They take a chance as to quality, but there is a percentage of people who will buy through the Internet, catalogues or however. We believe that, as time goes by, the percentage of those people will increase.

**ACTING CHAIR**—You are saying you would estimate that to be around 10 per cent at the moment?

**Mr Reeves**—We think about 90 or 95 per cent of people will go into the store to shop. That is just a guess. The majority will certainly do that. What I am saying is that, as time goes by and the Internet becomes more acceptable, more people will shop in different ways.

**ACTING CHAIR**—You talk about the question of your members being slow to embrace the technology. Could you expand on the opportunities you see there for your members in developing Internet services?

**Mr Pocklington**—My company started developing our own fully interactive web site late last year. I am hopeful that, by the end of the month, we will have our on-line jewellery shop up on the net. We believe that there is an opportunity there for small businesses. We will be targeting, obviously, Australian customers. We represent 390 independent jewellers throughout Australia and, because we have that base where there are shops physically behind the site, that will help getting acceptance by consumers. I think you have to be in it now; otherwise you will miss the boat.

**Mr Reeves**—As an association, we have embarked on a project only in the last few months to have our own web site up and running which talks about the association and gives consumers some basic information about jewellery—what is a diamond, what is gold and so on. We have provided an individual web site for every single one of our members at no charge to them. Every single member around the country has their own web site. We are now working to further refine that so that these web sites will be in the form of a locality guide on the Internet. If you are a consumer in, let us say, Adelaide and you want to look up your local jeweller who is a member of the Jewellers Association, we are working towards a system where you will click on to Australia, then you will key in the postcode where you live or where you are going to go shopping and up will pop a list of our members who are in that postal area. You can then click on to those individual jewellers. That is a service that we are undertaking at the moment and will refine as time goes on.

**Mr BEDDALL**—There is a question to be raised about thresholds. If items are imported under the threshold then sales tax does not apply. For items over the threshold which are imported, sales tax is avoided; it is still due I understand. I think Customs are coming to us later. Isn't there a move now to reduce the threshold from \$1,000 to \$250? If that is the case, isn't anything under \$250 going to be difficult to address and anything over that obviously something that will impact, presumably? There are some watches under \$250 but whether you would bother trying to import them from the US or wherever for less than \$250—

**Mr Pocklington**—If the threshold drops, yes, that would make it more difficult but

I wonder whether we are putting in regulations to stop Internet trading rather than finding ways to work with it. One of the key points from the White House policy on Internet commerce says you should not do that sort of thing.

**Mr BEDDALL**—That is because the US dominates the Internet.

**Mr Pocklington**—That is true but I do not think an individual country can work against it. When you go through that paper, they are working with the World Trade Organisation and other committees to make sure we have common regulations on those issues—tax issues and fair trading issues—throughout the world which I think are going to be needed. The average price of a piece of jewellery—and the only information I have is from the Commonwealth Bank of Australia based on a summary of their EFTPOS transactions on jewellery—is around \$130. People often have the perception that when you buy jewellery it is a \$10,000 ring or something. The vast majority of sales are under a couple of hundred dollars and \$130 is the average I have from the Commonwealth Bank. If you can buy a \$750 watch for \$US300 or \$US350 and pay your 32 per cent sales tax you are still miles ahead.

**Mr BEDDALL**—That is not an Internet issue; that is a pricing issue.

**Mr Pocklington**—No, it is two issues. One is that our sales tax rates are totally internationally uncompetitive because we are now moving into a global marketplace and it is going to be exposed as being totally uncompetitive. The second one is that the larger economies of the world have lower buying prices and they operate on lower margins than Australian businesses. Likewise if you take Australia versus New Zealand the same relationship applies. I believe there are two things that are being exposed: the smaller economy with the higher margins to sustain businesses and the uncompetitive nature of our sales taxes.

**Mr FITZGIBBON**—Obviously, Colin, you are talking about changing the tax mix. Does that mean your association supports a goods and services tax?

**Mr Pocklington**—Certainly. One of the things that has always frustrated me is that I have not found more than one in 100 people who actually know how a GST works. That is through all walks of life, including accountants and so on. It is only because I have been to New Zealand, and in fact we operate two New Zealand companies that we own, that we know how it works.

**Senator WATSON**—In your submission, you say a decision to abolish sales tax is the single most important action the government can make and, as a matter of extreme urgency, we need to abolish the wholesale sales tax and introduce a retail tax at a uniform and acceptable rate. What do you think would be an acceptable rate?

**Mr Pocklington**—I think that any rate has to be one that is obviously acceptable

to consumers first. I guess that is partly a political and partly a financial decision. I would see it being something in the range of 10 per cent to 12½ per cent, keeping in mind the amount of costs that go out. What people have not understood is that with a GST, or retail type tax, every business in Australia has its operating costs reduced to the extent that they pay any sales tax today. There is an immediate boost for every single business in Australia to its profit margin, which obviously will be reflected in lower prices as it was in New Zealand.

**ACTING CHAIR**—I would like to take up some of those issues but it is probably not the appropriate forum so I might go on to a couple of other questions. Did you have another question, Mr Fitzgibbon?

**Mr FITZGIBBON**—Chris, you were talking about your efforts to set up web sites for all your members. That is fine for domestic trade. If there is an inevitability about this growing trend in Internet commerce, you are only going to survive if somehow you become an exporter yourself within Internet commerce. The sales tax issue is the big hurdle there. What are you doing, if anything, to give your members an opportunity to access those world markets rather than just be the target of others?

**Mr Reeves**—We are taking various actions, but not through the Internet. We have a policy where we encourage our members and manufacturers. We have a small jewellery manufacturing base. We encourage our members to—

**Mr FITZGIBBON**—Could I just pick you up on that? I was going to ask you what percentage of the goods that jewellers in Australia retail are manufactured in Australia. Do you have any idea? It can be only a guesstimate; it does not have to be precise.

**Mr Pocklington**—The best guesstimate I could give would be something under 10 per cent. All name brand watches comes from overseas. You have to keep in mind that a lot of the stones are actually mined in Australia and sent overseas for cutting and polishing. We buy them back in finished products. There is probably a greater Australia content than that, but because we send it overseas and buy it back, I would say around 10 per cent.

**Mr FITZGIBBON**—That really does put you behind the eight ball in this industry. We are starting to talk about trade liberalisation generally. There are going to be winners and losers and it is obviously going to be very difficult for an industry which is so heavily reliant on imports itself.

**Mr Reeves**—That is correct. We do actively encourage export efforts. We are organising a trade mission for the Hong Kong Jewellery Fair in Hong Kong in March, where we are trying to get an Australian exporters pavilion up and running. There is already one of these up and running at the world's biggest jewellery trade fair in Basle,

which is held every year in April-May. There is an Australian pavilion there that is dominated largely by opal jewellery—opal manufacturers and producers. We are looking at ways of expanding our export effort into the Japanese market through similar efforts as there are jewellery trade fairs there. That is the primary focus of our activities there. There are efforts being made to try and boost the efforts of our manufacturers.

**Mr FITZGIBBON**—Isn't that a bit like taking coal to Newcastle? If you are talking about goods which are basically imported from countries like Japan, how do you compete? Are they the sort of goods we are talking about?

**Mr Pocklington**—I think that there are some Australian jewellery businesses who, because of their name for design and so on, can and will succeed overseas. There are a few top Australian designers. But the vast majority of people in the industry cannot effectively compete on price with the larger economies. Do not forget they are buying the goods from the same overseas places as well. They are still buying their Seiko and Citizen watches from Japan and their stones from the same world diamond markets. The difference is purely a lower buying price because of quantity; a lower margin because they are operating on a larger market, and a much lower effective tax rate on the goods. They are the three things that are the difference.

**Mr FITZGIBBON**—You said that something like 767 stores have closed in Australia. I am trying to determine what proportion is as a result of Internet commerce or what proportion is due to other international factors.

**Mr Pocklington**—With the stores that have closed, I would say almost none at that point would have been because of Internet commerce. Those figures, from memory, went from 1992-1995. Obviously Internet commerce had not taken hold then, so it was mainly for other reasons—the state of the economy, the sales tax rates and other factors.

**Mr FITZGIBBON**—So you were not trying to blame Internet. You are just highlighting that as an illustration of the fact that the industry is already in crisis and this is going to be another kick in the guts.

**Mr Pocklington**—That is exactly right. I want to make the point that it is just not this industry. It is every retail and wholesale industry in Australia where the consumer would be willing to wait a week for the goods. That is something we have to take on board.

**Mr BEDDALL**—I will come back to the wait of a week. That presumes that it would be airmailed. Sea mail would take much longer and we have had some evidence to this committee already about it really being only cost-effective if you are prepared to go sea mail for larger items. To come back to your point about \$130 average price from the unreliable source, you have the Commonwealth Bank EFTPOS, which is probably right.

Is it not the reality that most of those sales would be along the lines of giftware or small pieces of jewellery—men buying cufflinks and women buying earrings, those sorts of things, or a gift for a wedding—around \$100 or less? Do you really think that the market is going to be affected by the Internet? Are people going to send away on the Internet to get a pair of cufflinks? My point is that the site is in the shopping centre; there is a jewellery store there and people go in and buy at the jewellery store.

**Mr Pocklington**—As Chris said, a number of people will continue to do that because they will either want it now or they will want to pick it up and touch it. The goods that are at risk first are those that are readily identifiable. That is why I picked watches, because they are readily identifiable, you know what they are: you can do a comparison and they have an international guarantee.

The next type of goods that are at risk are gold hoop earrings, something that is basic. There is nothing more to it; it is what you see and there is so much gold in it. Those basic gold products are next and then it will move on. As time goes on, as people get used to it, and also as the security measures and the publicity about it increases, people will be more and more prepared to accept buying over the Internet.

**Senator COONAN**—I wanted to pursue some consumer protection issues. As you quite rightly say, with an international guarantee for a Seiko a consumer might not get into trouble if they needed to call on the warranty or have repairs. What happens with other items? Are you proposing that your members would effect repairs of stuff bought overseas? Do you do that now? If somebody comes in and says, ‘I bought this bracelet in San Francisco and the catch has gone on it’, would you repair it?

**Mr Pocklington**—No, a jeweller would not do that today without a charge. That would still happen. I think that is a good point. The levels of security are that there are two organisations in the world that I am aware of, one of which is called Verisign. To trade on the Internet, if you register with them, and basically you would have to prove that you exist, you have a little keylock on your screen which means the customer knows that you have at least proved you exist with Verisign. That is one level of security. Over and above that, you take your chances at the moment.

All of these Internet sites are backed by very solid traders. One of the biggest jewellery sites is Zales, which has over 500 jewellery shops in America. If you are dealing with an organisation such as Zales, I think there is a fair amount of confidence that the goods are of good quality. But you would still have the same problem that, if you buy it, and the catch is broken then, yes, you have to pay to have it fixed.

**Senator COONAN**—Is that a disincentive if you have to return it to Zales overseas to get it repaired?

**Mr Pocklington**—It is. If you bought something for \$200, and it is going to cost



you \$20 to get it repaired, but you have saved about \$200 in buying it, you probably would not care. You would be happy to pay the \$20 to have it done here.

**Senator COONAN**—So you think consumers would take the risk on buying a cheaper item and either having to throw it away or pay to get it fixed here.

**Mr Pocklington**—Yes, that is right. The saving is going to be so much on the initial purchase that there is going to be a degree of tolerance.

**Senator COONAN**—With international guarantees, Seiko would presumably have nominated some local outlets to do repairs and maintenance. Is that how it works?

**Mr Pocklington**—That is right. Seiko and the major watch companies have a head office in Australia and they appoint people as Seiko repairers. They are also concerned that, because of the price differences between the countries, they might end up servicing a lot more watches than they sell. That is something that they are putting their mind to at the moment.

**Senator COONAN**—Have there been any concerns amongst your members, and amongst established watch brands, as to counterfeit Seiko watches and things of that nature being brought in for repair?

**Mr Pocklington**—No, I have not heard any concerns about that.

**Mr ANTHONY**—You mentioned that there is a large trend on the Internet now for CDs and software. What is the percentage of sales, particularly for software? We have heard about CDs because it has been quite topical. You also mention in your arguments for consumer protection with ACCC that you want to have registered sites and that there is merit to that, of course. What happens with all of the unregistered sites on the Internet? Do you just get a transfer from one site to another? I know you cannot regulate that but you are obviously making an assumption that you can control part of the market.

**Mr Pocklington**—I do not think it is market controlled. I think we have to give consumers some confidence and the first level of confidence is what they call third party mediators such as Verisign. We do not have one that operates in Australia but we should encourage someone to take that up. I believe, through the ACCC, and in conjunction with the World Trade Organisation committees already working on it, we should come up with a code of conduct for Internet service providers, the computer companies that actually host the sites. At least then we can make sure that there are no rogue traders. I think that is important. Perhaps with the ACCC there needs to be some way of verifying that someone who trades on the Internet is an Australian site and adheres to certain codes of conduct.

**Mr ANTHONY**—But, by having a registered site, I could be buying all this jewellery offshore and feeling extremely confident that my guarantees are all 100 per cent.

You could actually be enhancing the purchase of goods offshore.

**Mr Pocklington**—I think the ACCC should only be adding its support to Australian sites. I do not think we should be endorsing overseas sites. I think we should be making it clear to consumers that they are buying from an Australian trader and that there is a greater chance of having guarantees on it.

**Mr ANTHONY**—In your market research, can you give an estimation of what percentage bearing that will have on consumers, if it is an Australian registered site or a non-registered overseas site? It is still going to come down to price, is it not? That is what you are concerned about.

**Mr Pocklington**—Yes, that is right. We have to get the price issue under better control than we have it now and that is important. There is always a price gap and people will go one way or the other. If you bring the gap closer, they are more likely to stay with the Australian sites, but if the gap is too much and they can buy whatever it is for half price—their CDs, for instance—they will buy them from overseas.

**Mr ANTHONY**—At the end of the day—as you have articulated—it is really on price. Say I can buy an Australian watch from an Australian jeweller in Melbourne at 30 per cent less than I can buy it from my country town. That is a concentration of purchasing power within the big jewellery stores, within Australia, all accessing the Internet, is it not?

**Mr Pocklington**—No; that price difference in the domestic market does not exist. The price difference, if any, in the domestic market would be no more than 10 per cent, and that is if you can find it. Do not forget that the Internet allows you to do your own research on a much faster basis so that you can find the best prices for anything, anywhere in the world, in a matter of minutes. That is a major difference that we would need to come to grips with. In Australia there are the large chains of department stores and there are major buying groups such as ours. They all basically have the same buying prices.

**Mrs STONE**—You mention the buying groups. I am aware that that is one of the major shifts in jewellery retailing in the recent years, that the Goldmarks and the other major groups advertise together and have advantages commercially through that economy of scale. Have you looked at price back guarantees? Is that something that would give you an edge? There is no reference to the international guarantees on these ads that we can see, whether that is said somewhere else or people make that assumption. You are talking about bringing the wholesale sales tax down—that is your optimal—but that will still leave you way ahead in price at the moment, given the margins that you already described as excessive compared with other countries, economy of scale wise. A lot of you are linked already to overseas chains, are you not, so you are part of buyer groups that function internationally?

**Mr Pocklington**—No. Organisations such as Goldmark, Prouds, and Angus and Coote are wholly owned chains of stores in Australia. My group is a group of independent jewellers purely in Australia. So there is no international cooperation on buying groups.

**Mrs STONE**—Is that not somewhere you can move to? Looking to international buyer groups might give you the advantages of purchasing that the big US groups and other groups have.

**Mr Pocklington**—It might be something we need to explore but we also need to keep in mind when we talk to these American traders that we are so small that we just do not count. You have to speak to them and realise their size to understand how insignificant we are in the world market. That is the problem we are up against. Most of them do not even know where Australia is.

**Mrs STONE**—So what about the money back guarantee issue?

**Mr Pocklington**—All of the jewellers in Australia already have those guarantees.

**Mrs STONE**—But it is not currently offered on the Internet, is it?

**Mr Pocklington**—I have not seen it on the sites I have looked at so far, no. It was something I would like to assume happens, and certainly Zales, which is backed by that network of shops, would have it. With these other sites I am not sure.

**ACTING CHAIR**—On the issue of commercial entry thresholds, the \$250 and the \$1,000, and also on the question of the level of the duty and sales tax free limit, do you think that needs to be adjusted? Have you any comments on those issues?

**Mr Pocklington**—If a person can buy something overseas for \$200 and save \$200, that person would probably buy it. As the price goes up, the savings go up as well. That is the problem. A lot of people would take the risk of beating the system. Let's face it, Australia Post probably cannot check or open one in 10,000 parcels. The chances of being caught are almost zero. However, if you do get caught you pay the tax and you are still hundreds ahead.

**ACTING CHAIR**—So it is an issue like prohibition: you cannot ban something people want?

**Mr Pocklington**—Yes, and this is what this White House paper says on that topic: you cannot do it.

**Mr FITZGIBBON**—You say when you are caught you pay the tax. Isn't there a penalty involved as well? It is probably a question for customs people later.

**Mr Pocklington**—There is a 100 per cent penalty, but even then you would be ahead. That is if you are caught, and the chances of that are one in 1,000, or one in 10,000.

**ACTING CHAIR**—Thank you very much, gentlemen. We will adjourn for a few minutes.

**Short adjournment**

[10.32 a.m.]

**CLIFT, Ms Jenny, Legal II, Office of International Law, Attorney-General's Department, Robert Garran Offices, National Circuit, Barton, Australian Capital Territory 2600**

**CRESWELL, Mr Chris, Acting First Assistant Secretary, Information and Security Law Division, Attorney-General's Department, Robert Garran Offices, National Circuit, Barton, Australian Capital Territory 2600**

**HOLLAND, Mr Keith, Assistant Secretary, Security Law and Justice Branch, Attorney-General's Department, Robert Garran Offices, National Circuit, Barton, Australian Capital Territory 2600**

**ORLOWSKI, Mr Steven, Special Adviser, Information Technology, Attorney-General's Department, Robert Garran Offices, National Circuit, Barton, Australian Capital Territory 2600**

**SCHMIDT, Mr John Michael, Senior Adviser, Strategic Planning and Policy and Information Technology, Office of Law Enforcement Coordination, Attorney-General's Department, Robert Garran Offices, Barton, Australian Capital Territory 2600**

**ACTING CHAIR**—I would like to welcome representatives from the Attorney-General's Department to today's hearing. We have received a written submission to this inquiry from you. Do you wish to present any additional submissions, or make an opening statement to the committee?

**Mr Creswell**—Thank you. As I indicated, I am acting in the position of head of the information and security law division in the absence of Peter Ford, who is more expert in these matters than I. The preparation of the department's submission was coordinated by Peter Ford. The next most expert person with the greatest familiarity with all aspects of the submission is Keith Holland on my right. And I might ask him, in that capacity, to give a short comment or overview on the submission.

**Mr Holland**—In preparing this submission for the committee, the department was very conscious of two perceptions that are held very strongly in the community. The first was that, in coping with the technological and electronic revolution, there needed to be a legal revolution. It is frequently said that the age of electronic commerce requires 'a suite of cyber laws' and that we need a transparent and predictable legal environment.

The second perception was that, in coming to grips in what were seen by the community as problems, very little has been done and not a lot is happening at the moment. Our submission has focused primarily on that second perception to give the

committee an overview of what is being done and what this department has been involved in, both at the national and the international level, in addressing the problems that are perceived to be holding back electronic commerce.

Without pre-empting anything that either this committee or the expert group that the attorney has set up might come to conclude, our preliminary assessment would be that there is no need for a legal revolution. The great hallmark of our legal system is its adaptability. It has, over the centuries, been able to cope with changes, including changes in technology. The main focus of our submission to this committee has been to let you know what we have been doing and where we expect to go in the near future. We have assembled these people here today who might be able to answer any of the questions that you want to ask that will further expand on the information that we have given you in our submission.

**ACTING CHAIR**—Your submission raises significant concerns for law enforcement arising from the growth in electronic commerce and the use of encryption technology. Could you expand on those concerns and discuss the magnitude of potential threat and how effective our existing law enforcement methods are in encountering encryption technology?

**Mr Holland**—I would like to invite Mr Schmidt and Mr Orlowski to make comments in relation to that. Mr Orlowski has familiarity with the cryptography and Mr Schmidt with the law enforcement aspects.

**Mr Schmidt**—Law enforcement agencies consider themselves to be reasonably well adapted to meet commercial issues, until we start moving into areas like electronic commerce, which cross international boundaries and take the transmission of money outside the traditional systems of exchange of moneys. They are very much concerned that their powers are not undermined by developments in technology, particularly in this area. There is a considerable amount of uncertainty that law enforcement agencies will be able to maintain pace to be able to deal with transjurisdictional issues and changes involving encryption.

**Mr Orlowski**—The Australian government and the international community in general recognise that a balance needs to be achieved between cryptography, which is a very strong tool for protecting corporate data and personal information, providing security over the Internet and the problems that could be produced for law enforcement by not being able to access material where they need to.

As part of that exercise, the Organisation for Economic Cooperation and Development held a series of meetings over the last 18 months which resulted in a set of cryptography policy guidelines being developed which tried to strike the balance between those two requirements. Internationally, those guidelines have been adopted by the OECD member countries. They are now in the process of being promulgated to non-OECD

member countries in an attempt to get an international balance between these two—I will not say conflicting—different interests which at times may create problems for each other.

So there is this attempt to strike the balance which is now being looked at internationally, and Australia hosted a conference in Canberra in July on how those guidelines are to be implemented. Governments are still working together, including the Australian government in consultation with its other OECD partners, on how these guidelines can be implemented to provide the necessary balance to prevent cryptography becoming a problem for law enforcement, or, on the other side, having to weaken cryptography to such an extent that it cannot fulfil its full capabilities.

**ACTING CHAIR**—With respect to those particular papers and conferences that have occurred, can you very briefly give us a flavour of how that is panning out, because it seems to me to be a very large and complex issue?

**Mr Orlowski**—Certainly. I am not sure if the committee has a copy of the guidelines, but we can organise to get them. There were basically, from memory, eight principles in those guidelines, relating to trust, interoperability and standards. The three main ones were: that privacy had to be respected; that law enforcement may be able to obtain access to encrypted data—and it mentions a couple of techniques that can be used to do that; and, relating back to the standards side of it, that we need to get technical standards which are market developed to allow the market to have a major say in how all this technology advances to meet market requirements, but that we cannot overlook the government's requirements as well, particularly in respect of law enforcement.

The conference here in Canberra just looked at a number of issues and identified a list of issues which were not published but which governments took away with them to look at what sorts of steps they need to take to be able to implement the guidelines and obtain the necessary interoperability internationally.

**Mr Schmidt**—If I may add to my earlier answer, law enforcement recognises that these new technologies are coming in and that there is a great deal to be gained by supporting them, by bringing them in properly. The major concern for law enforcement—as we have seen in some of the other activities that have been going on, the Wallis inquiry in particular—is to ensure that law enforcement issues are raised at the outset of consideration of new technologies and considered along with the normal business, economic and other issues, and that an approach which properly addresses risk management and preventative measures is taken, rather than one which requires us to catch up afterwards in an attempt to deal with crime which we did not anticipate.

**Senator GIBSON**—Mr Orlowski, you mentioned that the market is basically going to drive what is going to happen, if you like, commercially. Isn't the market going to drive for larger and higher levels of security with regard to commercial transactions, and isn't that going to lead to higher levels of encryption, which is sort of in conflict with the

law enforcement agencies wanting to go the other way? Where do you see this in a few years time?

**Mr Orlowski**—What seems to be emerging at the moment is that the larger computer companies that are into this sort of technology are working with governments to ensure that the technologies are being developed in such a way that they are not going to be causing those sorts of problems. Two of the larger ones have recently announced products which certainly apply a high level of encryption but that are able to be exported from the United States because, in agreements with the United States, key recovery techniques have been developed which will allow the products to be exported. It is up to the users, within Australia anyway, as to whether they implement that technology at the moment. The computer companies are working with governments to try to overcome that sort of problem—mainly, I might say, driven by US export controls, which mean that they have to do that sort of thing to be able to export.

**Senator GIBSON**—Hasn't the US government banned export of the highest levels of encryption?

**Mr Orlowski**—Only under particular circumstances. If they do have certain technologies built into them which allow key recovery, they can be exported. And these two new technologies that are being developed at the moment will be exportable.

**Senator GIBSON**—I see. That is a key point, really, isn't it?

**ACTING CHAIR**—What sort of protection do those key recovery systems actually provide? Is it commercial?

**Mr Orlowski**—I do not want to get too technical.

**ACTING CHAIR**—Try not to, for my sake.

**Mr Orlowski**—The earlier technologies—the traditional key escrow debate that has been going on—were based on an individual lodging their encryption key with a government agency. The newer technologies do not look at the private encryption key; they look only at a key that is associated with a particular message, which narrows the field down. Generally, that key is encrypted with a series of keys from different trusted third parties, and so you need collusion between a number of parties before anyone can access that information.

Secondly, it narrows it down in that any interception can only be applied for the period of the warrant, because the session key changes from message to message. Whereas in the previous circumstances the private key was available for the whole time and, if messages had been prerecorded, you could go back and read them, this new technology narrows the field down to the particular field for which a warrant has been obtained, and



so it will require collusion from more than one party if someone were to try illegally to access those particular keys.

**ACTING CHAIR**—You mentioned earlier the question of the Attorney-General's expert group. Obviously you cannot pre-empt the work of that group, but could you make some more comments on the question of where they are up to and what some of the key issues are that are under consideration?

**Mr Creswell**—Mr Chairman, I will ask my colleague Ms Jenny Clift to respond to that.

**Ms Clift**—The expert group has finalised a paper that lists a series of issues, as is mentioned in this submission and is available on the Attorney-General's home page. It is basically looking at two sets of issues. The first set is related to the UN Commission on International Trade Law model of electronic commerce. The second set relates to public key authentication and legislation that may be needed to support both the legal recognition of electronic signatures and specifically a public key authentication framework for digital signatures. The group is currently working through all of those issues. I cannot really say how that work is progressing, except that the reporting date is March next year. There may or may not be more information available publicly, as some of the issues are worked through.

**ACTING CHAIR**—In your submission, you also indicate that there is a potential for some constitutional issues to arise with respect to the Commonwealth, states and territories: could you expand on what these issues are? And are there discussions taking place between those levels of government around those sorts of issues?

**Ms Clift**—The principal issues that arise, in respect of the work of the electronic commerce expert group, of a constitutional nature are that there are probably a number of approaches to how the legal system could be updated to take account of new technology. On some fundamental issues like statutory requirements for signatures in writing and some fairly basic things like that, there is a vast amount of legislation out there that has those sorts of provisions. Much of it is state and territory legislation, such as sale of goods acts and legislation dealing with the sale of property. It would be possible, I suppose, to contemplate amending every single piece of legislation, but that is obviously not a really viable alternative.

The other point that needs to be made is that, whilst the law on some of these issues might be different between the states and territories now, in order to gain the benefits that new technology actually brings, Australia needs to have a uniform approach to all of these issues. There needs to be, effectively, one law for Australia, however that may be achieved—whether it is achieved by Commonwealth legislation, and there are constitutional issues there, or whether it is achieved by a combination of uniform state and territory legislation or Commonwealth legislation, or however else it is achieved.

Obviously, the more a combination is involved, the more there is the opportunity for different things to emerge in different states at different times. Those are some of the issues that the group is going to have to consider in its recommendations to the Attorney.

I might say that, in the United States, there is a view that competition between jurisdictions is healthy in terms of attracting business to this or that state. You might have read some of the debate between states like Utah and California, which have quite different legislative schemes for authentication. It looks as if the federal government is moving towards uniform legislation that will run in parallel with the uniform commercial code, so there may be some uniformity in the states. But I am not sure how you translate those arguments in favour of competition to Australia.

**Senator COONAN**—In your submission you identify a conclusion by the ECTF in the following terms:

The erosion of Australia's revenue base by the decrease in relevance of concepts such as residence, source and nationality should be of great concern to all Australians.

I think that is fairly well received, and it is now being discussed widely. There is a reference also in your submission to law-makers 'aiming at a moving target', which is also a very graphic way of describing some of the difficulties with the traditional ways of looking at enforcement and revenue laws. Where are you up to in your thinking about how you are going to overcome some of those more traditional concepts, as a base for a series of laws that will enable the traditional tax laws, for instance, to be enforced?

**Mr Creswell**—Mr Schmidt would like to make some comments.

**Mr Schmidt**—As you are probably aware, the Australian Taxation Office has recently released a document for discussion, *Tax on the Internet*. I will not attempt to repeat what they have put in there, but that obviously raises some major issues. While the office does not perceive that there is immediate danger to Australian taxes, it does perceive some long-term issues.

The immediate knee-jerk reaction, of course, is to attempt to generate new laws which are technology specific to address particular little ways of doing things. I think it has been already suggested that the department is not keen to go in that direction but rather to ensure that its laws are broadly enough stated to enable a proper response to the use of Internet technology to do, quite often, much the traditional things. That is the general approach we are taking. As to specific answers, we are still working on them.

**Senator COONAN**—I know, for instance, that there is considerable expertise amongst those giving evidence on intellectual property. Where are we up to with looking at some of the particular issues that might involve intellectual property ownership and some of the problems of enforcement with infringement of copyright, for instance?

**Mr Creswell**—The department has been working with the Department of Communications and the Arts in addressing the adequacy of copyright law to afford effective protection of copyright on the new communications networks. A departmental discussion paper, dated 31 July, was released. It includes a foreword by the Attorney-General and the Minister for Communications and the Arts. That proposes some legislative changes to make copyright protection more effective. They are along the lines of, and strongly influenced by, the two recently concluded treaties under the auspices of the World Intellectual Property Organisation—WIPO. They were concluded in December 1996.

The discussion paper invited comment on these proposed amendments and quite a number of submissions were received. Since the last week or two of September, action officers in the Attorney-General's department and the Department of Communications and the Arts have been having quite intensive consultations with some of the main submitters from various industries like the broadcasting industry, music industry, publishing industry, computer industry and so on.

Overall, the proposed solutions of the discussion papers have been quite favourably received. It is really just hammering out some of the details. As you can imagine, wherever you propose new protection, there are people who are users either individually or on an institutional scale of copyright. They become alarmed that they might be shut out of reasonable access to copyright on the new communications networks. There is always the question of achieving balance between an appropriate level of protection of copyright and yet affording reasonable access to copyright.

**ACTING CHAIR**—You mentioned WIPO just before. I imagine a number of other international organisations—World Trade Organisation, APEC, United Nations Commission on International Trade Law—are all looking at aspects of these sorts of issues. Would you be able to outline where some of them are up to on some of these questions as far as you are aware?

**Mr Holland**—Earlier on in my introductory remarks I mentioned that we felt that the fundamentals were in place in Australia. While there may be some need for tinkering around the edges, nevertheless, the basic structure is there to be able to cope with this. That is at the national level. Quite clearly, given the international dimensions of electronic commerce, the thing that we have to be very conscious of is that nothing happens overseas that is likely to adversely impact on us. That is why this department in particular, has been actively engaged in the work of WIPO, UNCITRAL, APEC and so forth to make sure that any codes of conduct, guidelines or model laws or treaties that are adopted are ones that we can live with. With that introduction, I would invite my colleagues who are involved in the specific work of those organisations to make remarks.

**Mr Creswell**—To supplement what I indicated a moment ago, that is right. The Australian representatives at conferences and meetings on the development of the two new treaties that I referred to were certainly actively participating in that. I would reinforce

what my colleague has just said about the fact that the treaties supplement existing standards. They do not throw everything overboard and start again. The Berne convention, which is the foundation international instrument on copyright protection, has grown incrementally over the last 110 years of its existence. This is just another incremental addition to that protection.

At the national level, there is not a glaring gap in the protection of copyright. Indeed, a recent case in the High Court between Telstra Corporation and the Australasian Performing Rights Association reinforced the obligation of large institutional users like Telecom to pay their just due to owners of copyright. There is ongoing work. As you would expect with a diplomatic conference, not everything gets settled. There is still an issue of the protection of certain data bases which, of course, are a very critical technological component of the new communications networks. Also, film actors' rights were not able to be agreed on at the diplomatic conference, so there is ongoing work there.

I might take the opportunity to address your inquiry regarding the World Trade Organisation, at least in regard to intellectual property. The WTO really is not putting much into updating standards. The running really is being taken by WIPO, which is much better resourced to do this. After all, the present intellectual property agreement for which the WTO is responsible—the TRIPS agreement, to use its acronym—is still being implemented by developing countries. In fact, developing countries have until the year 2000 to implement that. So the WTO has a lot of work there just coaxing the developing countries and helping them to get to the barrier by the year 2000.

In APEC, there is an intellectual property experts group that has been working on various aspects of intellectual property protection amongst the economies comprising APEC. I think it is fair to say that its main focus has been on helping the developing economies get their legislation up to TRIPS standard by the year 2000, and perhaps even encouraging them to get a bit ahead of that. There has also been assistance to those developing economies with practical things like enforcement of intellectual property rights. Mr Orłowski might like to comment on the OECD work beyond what he has already indicated.

**Mr Orłowski**—The OECD has an expert group on security, privacy and intellectual property protection and the global information infrastructure, which is chaired by Australia and is looking at providing a regulatory framework to facilitate the development of electronic commerce internationally with minimum intervention; in other words, to try to identify stumbling blocks, find out how they can be structured in such a way that legal frameworks of individual nations can apply so that they are compatible internationally and will minimise any disruptions to the international development.

Similarly, APEC has a business facilitation steering group which is doing the same

sort of activity, the APEC exercise being a little more market driven than the OECD, but again looking primarily at interoperability issues and minimum government intervention to provide the framework to facilitate that sort of work. Australia is deputy convenor of that facilitation group as well.

**Mr ANTHONY**—Is it a precondition that you have to be signed up to the WTO before you can sign up to WIPO? We know a lot of the countries that are obviously breaching WTO conditions. What are some of the countries where you are having problems with intellectual property?

**Mr Creswell**—WIPO is a specialised agency of the United Nations, whereas the WTO almost proudly proclaims the fact that it is not—repeat, not—a UN agency. It never has been part of the UN system and, obviously, that goes for its predecessor, the GATT. It was never a UN organisation. I suppose a good indication of that, as I discovered in my desultory encounters with WTO negotiations, was when Hong Kong was at the table. Obviously, it was not then, and is not now, a separate country but it was able to be a member of GATT.

That said, in regard to the intellectual property matters which Mr Anthony raised, the TRIPS agreement—and that is shorthand for the Agreement on Trade Related Aspects of Intellectual Property Rights—is an inextricable part of the WTO package of agreements which were signed at Marrakech in 1994. The TRIPS agreement in regard to copyright requires all TRIPS members to implement all but one of the obligations of the Berne convention, and the Berne convention is administered by WIPO, without actually requiring them to join Berne. To give an example, Singapore is not a member of the Berne convention but Singapore is a prominent and active member of the WTO so Singapore has to implement all those Berne convention obligations.

**Mr ANTHONY**—Are there many countries that are not members of WTO but are signatories on the Berne convention?

**Mr Creswell**—I think there would be a few. My recollection is there are about 132 members of the WTO and they are all the big economies. That said, of course, there is about a quarter of the world that is not a member of the WTO, namely China. China has joined the Berne convention but it is not a member of the WTO. Russia I think is still not a member of the WTO. There are 132 members but there are a couple of notable absentees. Russia is also a member of the Berne convention.

**Mr ANTHONY**—We could get a situation where a majority of countries, let us say, recognise intellectual property rights but are obviously operating outside WTO rules for bulk commerce?

**Mr Creswell**—Yes, China, as I have said, is still not in it so in that regard China is operating outside WTO rules. I guess a reason that they are not in there is that—and I

have to qualify this because it is outside my realm of expertise—there are a number of their broad trade practices way outside intellectual property which the US for one finds objectionable. One hears in the media in the last 24 hours that the US has a very large trade deficit with China. While they have this on the one hand, it irks them that there are still barriers, they claim, to the free export of US intellectual property—and the US is a very big exporter of intellectual property to China in films. China says that it has cultural implications. They do not want to be flooded with a whole lot of Hollywood stuff because they want to maintain some cultural control. That is what they say, whether that is the full story or not.

**ACTING CHAIR**—The Clinton administration report and also the European Commission report on this issue were mentioned earlier. Are there any particular issues that are raised by those reports where you agree or disagree significantly with the conclusions?

**Mr Holland**—Mr Chairman, the answer to your question is no, we do not have any specific recommendations that we would agree or disagree with or that we would have any conflict with. I think the general comment can be made, however, that, particularly in the Clinton administration's statement of July, there was a reference to the fact that any changes to existing law and any new laws that should be brought in should be minimal in nature and should only be done where it was necessary or desirable to foster electronic commerce. That is certainly a view that this department shares. As we said earlier on, we believe in a predictable and a transparent legal environment but, again going back to the earlier comments, we have to pay attention to what is happening overseas and what they are doing, so that that can be factored in to what is happening back here.

**ACTING CHAIR**—Essentially, the feeling I get from it is that it is a thematic approach which is required in dealing with rapidly changing circumstances and it means that it is very hard to talk in specifics.

**Mr Holland**—That is right.

**ACTING CHAIR**—Any more questions? We will call it quits there. I thank the department for attending. We will now have a five-minute recess before we hear from the Customs Service.

[11.17 a.m.]

**AUSTIN, Mr Graeme Maxwell, Director, Customs Commercial Advisory Service, Australian Customs Service, 5 Constitution Avenue, Canberra, Australian Capital Territory 2601**

**DRURY, Mr John Michael, Deputy Chief Executive Officer, Australian Customs Service, 5 Constitution Avenue, Canberra, Australian Capital Territory 2601**

**GULBRANSEN, Mr Peter, Director, Import Policy, Australian Customs Service, 5 Constitution Avenue, Canberra, Australian Capital Territory 2601**

**ACTING CHAIR**—I welcome representatives of the Australian Customs Service here today. We have received a written submission to this inquiry from you. Do you wish to present any additional submissions or make an opening statement to the committee?

**Mr Drury**—I do have some opening remarks to make, but I also have a number of corrections to the submission which we have made. They are not extensive, but nevertheless we would like to make them. Perhaps I should make them now rather than go into the opening material.

At page 7 of our submission, at paragraph 2, the second last line should read, ‘Approximately one million parcels and 11 million other articles were received.’ So that expands that particular statistic. I can hand this up to the secretary or to note takers to make sure that we do have these corrections.

On page 22 of the submission, under the heading, ‘If thresholds are increased’, we made the statement, ‘The figure assumes that the importer will not elect to lodge an entry below the thresholds and will acquit duty liability through available informal mechanisms, that is, through ICDs, informal clearance documents.’ We believe that that assumption is somewhat simplistic. There are alternatives that can be used. The consequence would be to alter the graph on page 25, which is figure 2. Those alternatives would increase the costs to government. We will submit corrections to that. The calculations are somewhat complex and I do not think I should chew up the committee’s time by going through details at the moment. Nevertheless, we will repair that part of the submission.

**ACTING CHAIR**—Have you got those corrections with you?

**Mr Drury**—I do not have the other details.

**Mr Austin**—Not for the graph, no. That requires a bit of work through the computer. We will submit it at a later date.

**ACTING CHAIR**—You will forward that to us later on as an additional

submission?

**Mr Austin**—Yes.

**Mr Drury**—Thank you for allowing us to make those corrections. I will perhaps begin by, firstly, referring to the two gentlemen with me. Mr Gulbransen comes from the branch that looks after the movement of cargo in and out of the country. He comes from the cargo facilitation area. In recent times he has spent quite a bit of his work in Brussels where he has been working on the Kyoto convention, which has such profound influence on all custom services around the world in the way in which they treat the movement of goods in and out of their countries.

I suppose I would call Mr Austin, on my right, the client manager. He is the one who looks after the way in which we communicate with people who do business with us in a very public sense. So he has established units around the country which have client advisory groups. They look after people who are scratching their heads and wondering how on earth they can do business with Customs. We pass the ball to him about electronic commerce and about the dimensions of it, the details of it. So with these two gentlemen here this morning and others in my team we can get into quite some detail, if the committee so requires.

The point to make from the outset is that the way in which Customs does its business embraces both the postal system and air freight. With sea freight we essentially have large bulky goods and commodities. Nevertheless, we do see some small value items come through seaports. But, principally, people send small value items by either using courier or some other service to have them transported by air or else they put them in the post. It is not uncommon for customs services to look at the volume of material that confronts them in these small packets and to make judgments about where it will have thresholds for removing the bulk of that overburden without hindering it but making sure that there are techniques for interception where appropriate. As I say, Customs in Australia is not on its own in that respect.

The trick for Customs, I suppose, is to work out where the two curves intersect, where the profit and loss come together so far as the ratio of staff and other resource costs to benefit is concerned. I will be referring to the fact that we really do not have a great deal of good solid data on this, so we need to go out and get it. That material is being compiled for us by McNair Nielson, professional survey people.

One thing that we would also draw to the attention of the committee is that we do not collect data on the vast bulk of material which we screen out of the system. In other words, for material which is screen free, away from Customs scrutiny, we do not go that next step and collect any data about it. The reason for that is that if we are not going to intercept it to check it out then you do not do a secondary check to find out what it is that you have. But what we have found is that perhaps we should have been sampling that



material over a lengthy period, and we have not been doing that.

The trick to understanding what we do do in Customs—and to see where we have got what, on the face of it, is an anomaly—is to look at the differences between imports by air and imports by post. If you import goods by air and the goods are valued at \$250 or above, then you are required to lodge a formal declaration with Customs. That is either an electronic declaration or a manual declaration. If the goods are valued at less than that \$250 threshold and duty and sales tax is more than \$50, then the process that cuts in for the collection of the money and the quittance of the goods is an informal clearance document, an ICD. We have had ICDs around for about 25 years.

Anything below \$250 where the duty and sales tax is less than \$50 is what we unclutter. That is what we screen free. That is what we clear out of the system. Let me quickly add that we do have an electronic system called the air cargo automation application and that allows us to screen small value parcels through the information that is provided to us by the freight forwarders, by the airline companies or by the couriers. That allows the simple declaration which accompanies these things when they are shipped to Australia to be screened and risk assessed and also for any profiles to cut in if we are looking for drugs, for example.

Moving out of that and into the postal arena, this is where the difference is. As I said, when goods are valued at \$250 and above you formalise the imports by air and require the importer to lodge a formal declaration with Customs, an airport entry. With mail articles, the threshold is \$1,000. When you fall below \$1,000 but duty sales tax of \$50 or more is required, then the informal clearance document cuts in. So \$250 is the threshold for air; \$1,000 is the threshold for mail articles.

With postal articles, all parcels over two kilograms are screened by Customs. For articles and letters under two kilograms, we do a proportion check and we can go into some details about that later on. We also have physical examination processes at mail centres where Customs officials actually stand in the way of the flood of items as they come through the conveyer systems. We use X-rays and other methods as well, including dogs, to check mail articles.

One point I should make is that, while Customs has the role at mail centres making the selection for examination and then working sniffer dogs or running the X-ray checks, it is Australia Post who physically moves the goods and opens them if we need them to be opened. Australia Post also owns and manages the centres which are known as international mail centres.

We have some examples of how the threshold works. I can go through those later rather than include them at this early stage. There are a couple of things that I should mention. One is that, if we process transactions electronically via the formal entry method that I have referred to, the cost of doing that very quickly gets into the mid \$20s. The

actual cost, as of today's date, is \$20.80 to have an electronic declaration lodged with Customs and processed. There is an additional fee for each line once the number of lines on the customs declaration goes over 10, and that is 20c per line. There are some other processing costs as well. We are into the \$25 bracket to process a customs entry and it does not matter whether it is in excess of \$250 or \$1,000.

We still have a very small proportion of manual entries lodged with Customs. We have calculated, using external advice, that the cost of processing a manual entry is about \$45. When people come to the counter and try to do that sort of business by filling out their own forms, we are talking \$45. It is appropriate also to point out that a number of other countries use minimum collection levels, not just Australia. New Zealand, like us, uses \$50. Canada at the moment uses \$20. We do not have details of all other countries, unless some of my colleagues have that here this morning.

The entry threshold is the thing that we get asked to consider frequently—not just the amount of revenue that we cut in at as the minimum collection level, but also the level of the formal declaration. Customs in Australia is on the low side internationally. Our \$250 for air imports is low compared to other countries. The United Kingdom though has a differential between postal articles and air freight articles. We have been advised by the United Kingdom that that differential is £600 sterling for air cargo and £2,000 for postal items. In the US, they do not make a distinction and it is \$1,250 for air cargo and postal items. In our submission, we have referred to ICDs and we have quite some statistics in there. Perhaps we can get into that during our questioning.

I think it is fair to say that we have done some preliminary surveys of what it is that we are seeing at the present time in postal articles and airfreight articles at this lower end of value and duty. But the material that we surveyed, using our own statistical unit, probably raised as many questions as it answered. That is why we have gone to Neilson McNair to help us with a more comprehensive survey.

I guess the thing that troubled us a little, when we got our initial results, was whether we had seasonal factors in there. Probably the best example of that, and the one that worried us when we got the results, was that we did not find very much fishing tackle coming in as a low value item, so we are still looking for that. You can understand the significance and the relevance of us looking for that detail.

I quoted some statistics on how much it costs us to process an electronic entry and how much it costs us to process a manual entry. The reason our calculations of those costs are fairly good is that on 1 April this year—that is when new legislation imposed those fees and charges—we were obliged to cost recover for such transactions. We have spent a lot of months using financial advisers to calculate a lot of these things for us, and it was on the basis of those calculations that the figures for the cost of both electronic and manual processing of customs declarations was finalised.

We are looking this year for a net budget impact of cost recovery at \$46 million. That means that if we change any of the existing arrangements we have to measure what impact that might have on the cost recovery amounts, which of course funnel back to give us our running costs each year. So we are fairly sensitive to any changes to that mixture. I will close my opening remarks at that point.

**ACTING CHAIR**—You mentioned the Neilson McNair survey, which is, I take it, under way. When do you expect the results from that?

**Mr Austin**—We are looking at trying to have the results back by the end of November. We have had a scoping study done by Neilson, which has been provided to us, to look at the areas we need to get these sorts of statistics and the data required for low value imports. The end of November would be the latest that we could do it; otherwise we run too heavily into the Christmas mail periods.

**ACTING CHAIR**—You will pass that on to us when you get it?

**Mr Austin**—It was our intention to make a supplementary submission, with that data involved, at a later date.

**ACTING CHAIR**—You mentioned the question of specific examples. I think it is fair to say that one thing that has confused at least elements of the committee, in which I am included, is trying to get a handle on the way this operates, in terms of the thresholds, and duty and the sales tax free limit. You did mention you have some examples. If you have those I would be happy to hear them.

**Mr Drury**—Yes. I can run through those. I only have one copy which I need to read and then I will table it. We talk about compact discs. If we have a little collection of compact discs, and the declared value for customs is \$200, then regardless of whether they are sent by airfreight or whether they come through the postal system, the sales tax—there is no duty on compact discs—would calculate at \$52.80. So with \$200 worth of CDs, the sales tax is \$52.80. Because the value is less than \$200, you do not need a formal import declaration, you do not need to enter the goods for customs purposes. But the revenue is above our \$50 minimum level, so that means that the \$52.80 is payable. That is paid by informal clearance document, by ICD.

**ACTING CHAIR**—In relation to the value of the goods in that case, how do you establish what is a value of \$200 in terms of CDs? Is it wholesale, retail, overseas?

**Mr Drury**—It is the value that is declared in relation to the package, and that should relate to the transaction value of the goods. In other words, if you pay that amount of money, either by your credit card or by cheque or cash, then what you pay for the goods is the value.

**Mr ANTHONY**—That is Aussie dollars?

**Mr Drury**—It is calculated back to Australian dollars, yes.

**ACTING CHAIR**—For example, you might have a situation where a selection of CDs would retail in Australia for significantly more than \$200, but in fact you would purchase them overseas for under \$200.

**Mr Drury**—Under the international rules for valuing goods in trade, the starting point always is what you pay for the goods. You unravel that, you make that more complicated, if there is a relationship between the parties. But I would suggest that most people that go and buy CDs, either by filling out a coupon or getting on the Internet or ringing somebody up or knowing somebody overseas who can get them for them, just pay an amount of money directly to the retailer overseas. That then becomes the basis for the valuation.

**ACTING CHAIR**—Is there anything stopping somebody getting 10 lots of just under \$200 worth of CDs?

**Mr Drury**—It is almost impossible to pick that up. But it is not unknown that our people at mail exchanges would spot that type of thing. It has happened when I have worked in those circumstances. But, even then, you have the next question, as to whether or not these are all separate transactions or whether they are contrived. You cannot jump to the conclusion that they are contrived. You have to allow people to have the benefit of that sort of doubt, and you have got to quiz them pretty closely if you want to ask that.

**Mr FITZGIBBON**—Can I just work through this very slowly because I am a bit slow on all of this, I am afraid. You have just told us about a purchase in the US, say, of CDs worth less than \$200.

**Mr Drury**—Yes.

**Mr FITZGIBBON**—The retailer who is selling the CDs fills out a declaration. On that he puts the nature of the goods—compact discs—and the amount the Australian paid in Australian dollars.

**Mr Drury**—Normally he would put the value of his currency, or the foreign currency, on it. But that is then converted into Australian currency.

**Mr FITZGIBBON**—That declaration form will be punched into your computer and the computer would automatically make that—

**Mr Drury**—No. If it is a small parcel worth \$200 and it arrives at, say, the post office, we have people there who screen these sorts of packages. So this one gets dropped

onto the screener's desk, he looks at it and he says, 'Okay, we have got to collect \$52.80 on this one. We cannot let it go.' He fills out a card and the card is posted to your private address, and it will say, 'You can pick up the parcel, but you can only pick it up once you have paid this amount of revenue on it.'

**Mr FITZGIBBON**—If it had been the case that the duty had come to \$48, self-declared, there is only a possibility that that may be picked up in a random check?

**Mr Drury**—Well, not necessarily a random check.

**Mr FITZGIBBON**—Sorry, the value was higher; it had been declared to be at less than \$50 but, indeed, its value was more.

**Mr Drury**—The amount of revenue is a direct dividend of the valuation. In other words, we know what the rate of duty and the rate of sales tax is on all sorts of items, so if the duty on an item worth, say \$180, came in under \$50 then we would not collect it.

**Mr ANTHONY**—I came in a bit late so you may have already explained this. Could you just walk through the value of goods that are over \$1,000 and the revenue liability there?

**Mr Drury**—I did mention that earlier.

**Mr FITZGIBBON**—There are some more examples coming soon and you might pick that up.

**ACTING CHAIR**—We have gone through that slightly but we are now trying to go through some examples of what these things mean so I think you will pick it up through that, Larry. Maybe if you keep going with the examples that might be the best bet.

**Mr Drury**—I will come back to that point.

**Mr ANTHONY**—You might have some examples there as well.

**Mr Drury**—What I am illustrating here at the moment is what happens when something is under \$250 and where the duty or sales tax or both is above \$50. We collect the money; we do not ask for a formal declaration. We do it on the cheap, in other words, by an informal clearance document. That basically minimises our infrastructure costs. Let us say that the CDs turn up and this time the valuation is \$300; are you with me? If it is imported at the mail centre, then we would collect the money but because it is below \$1,000, again, we would clear it informally. In other words, the little card in the mail would say you can pick it up at the post office when you pay the money. But if it is at an airport and let us say an express courier—DHL or somebody like that—is handling that

item, then the courier company has to formally enter that transaction to Customs because it is over the \$250 value linked. They have to do two things: they have to have a formal declaration lodged with Customs and they have to remit the amount of revenue to Customs as well.

Let us take fishing tackle: we have \$900 worth of fishing tackle that turns up at the mail centre—here is where Mr Anthony might follow this one—and the fishing tackle is below \$1,000 so we are not asking for a formal declaration. But we are asking for the payment of the duty and sales tax because it would be above the \$50 minimum amount that we waive.

The next example I would have is jewellery. We have jewellery worth \$120—not a high value at all. The sales tax on jewellery worth \$120 is \$48, so that would be just screened out of the system. We would not collect the money and we would not ask for any formal clearance procedures in relation to that. But the jewellery only has to go up to \$140 for the sales tax to rise to \$56. Because it is over the \$50 we would collect the revenue. In both cases, whether it is by air or by the mail we would not ask for a formal declaration. We would clear it on an informal clearance document because it is below \$250 for air freight and below \$1,000 for postal items.

**Mr ANTHONY**—In your surveillance, what percentage would get through which is not declared and not detected?

**Mr Austin**—The survey that we did with the Australian Taxation Office at the Clyde mail exchange was referred to in attachment G of the confidential attachment.

**Mr ANTHONY**—We will turn the broadcasting off if you like.

**ACTING CHAIR**—If the details you want to discuss are confidential and you want them to remain confidential, then it is preferable that we consider them at the end of the hearing in camera rather than do it now.

**Mr Austin**—I can give you some percentage figures now and we can do the detail of it later, perhaps.

**ACTING CHAIR**—Yes.

**Mr Austin**—We are talking about what we call revenue leakage figures. I will go back and tell you a bit about how we conducted the survey. We did a random sample at the Clyde mail exchange of parcels and other articles going through. We also did a similar random sample for the air cargo. We looked at the truth of the declaration, in terms of what was declared on the face of the parcel. Bear in mind that it was only a little over 50 per cent of those declarations that could be read. A lot of the declarations were either missing, illegible or in a language that could not be read by the assessor. What we did

find out from that was that, in the post, somewhere in the order of about three per cent from the snapshot period that we looked at was possible revenue leakage.

**ACTING CHAIR**—When you say three per cent, is that three per cent of declarations that were incorrect?

**Mr Austin**—Of total revenue that should have been collected, there would have been about three per cent leakage.

**ACTING CHAIR**—That is on the basis of false declarations?

**Mr Austin**—Not necessarily false declarations. They could have been false or they could be mistakenly undervalued. Something did not match with what was on the declaration, which could either have been deliberately false or we could not read it.

**Mr ANTHONY**—The \$64 million question though is: is that of declarations that were incorrectly filled out or not able to be read? I suppose if you want to leave this until the end of the hearing, I appreciate that, but what is the percentage of goods you think get through that have not been declared and that you are unable to detect?

**Mr Austin**—Again, it would roughly be about the three per cent mark. That was based on the snapshot period that we took. One of the issues that came out of that exercise was the fact that we need more reliable data. For instance, as Mr Drury mentioned, there was no data in there on things like fishing tackle because the seasonal factors were missing. There were also some countries involved in that, but not all countries, so the risk assessment for some countries where some of the mail order product or Internet product may be coming from may not have been represented in the sample. We would need to collect more data to give any sort of definite percentage factor on that. All we can do at this time is give you an indication.

**Mr ANTHONY**—I think, if you can get that level, that is fantastic. If there are 12 million parcels going through Australia Post, I am delighted that you are able to get your non-detection rate down to three per cent.

**Mr Austin**—It is less than that for air cargo parcels.

**Mr FITZGIBBON**—I am not confident that I fully understand why we have such a large differential between the threshold for those coming in by post and those coming in otherwise.

**Mr Drury**—That is a good question and unless that is answered, people are in the dark. Basically, it is history. I can recall that many years ago, as a young Customs official, what really distinguished air freight and postal freight was that air freight was used by commercial and industrial interests. It was expensive but the speed of getting goods into

your shop or your factory or whatever it was deserved the extra money that you would pay for that, whereas stuff coming through the mail was often private or, if it was not, it was intermittent goods for businesses.

I can recall a debate within Customs quite some years ago—I am talking about the early 1980s—when those distinctions were felt to be significant enough for us to have a system where we facilitated the private importer, or the itinerant importer, or the person who perhaps came out of a country town and imported packets of seeds or something for an annual flower display, or something of that kind, as against the constancy and the regulatory of air freight, even if we were talking about small packages.

I think it was towards the late 1980s that the Industry Assistance Commission did a study of the efficiency, the costs, and the structure of postal matters. The IAC recommended that the differential between postal items and air freight items be done away with. In other words, it was said that there was a benefit to the postal authorities which was not available to those who used the air cargo system.

**ACTING CHAIR**—That change is proposed for April next year, is it?

**Mr Drury**—On 1 April next year, yes. We are bound by our legislation to even that whole thing up.

**ACTING CHAIR**—What will that mean in terms of the operation of Customs?

**Mr Drury**—That is a good question, and we are still having a lot of internal debates at the moment about how we are going to do this. I guess the thing that this committee is bringing into focus is: how do we juggle all of this and still come up with something that makes sense? Is \$50 too high? If we perhaps bring the mail threshold of \$1,000 for formal documentation down, how are we going to cope with an increased volume of postal articles that we would then have to acquit? If we increase the \$250 limit for air cargo to \$1,000, does that create the equity that we are talking about? We are still resolving those matters in our own debates, including debates with various industry representatives.

**ACTING CHAIR**—Is the implication of that change, doing formal declarations, significantly increased costs for Customs?

**Mr Drury**—Not as much as if people are thrown back to doing a manual declaration. I have already said that the costs of a manual declaration are twice the costs of an electronic process. But the one thing that we do not have adequate details on at the moment is how much it really costs us to do an informal clearance declaration in different contexts—in the air context as against the mail context. We have calculated that an ICD—and Mr Austin might add to this—for postal is about \$20.



**Mr Austin**—No. We have never had the data to actually accurately assess the cost of an ICD. There are no costs for recovery fees levied on ICDs.

**Mr FITZGIBBON**—But would you say \$20 is a fair ballpark figure?

**Mr Austin**—I really cannot answer that question. The only aggregate data that we have is for postal operations per se. I think they operate on about the \$20 to \$25 mark, but that includes formal entries as well as ICDs and things like that.

**Mr FITZGIBBON**—Hypothetically, if \$20 was a fair figure, would it not make sense to have a nexus between the threshold for an ICD and the cost of an ICD? The \$50 is very much an arbitrary figure, is it not?

**Mr Drury**—Yes.

**Mr FITZGIBBON**—Has an effort been made to link the two?

**Mr Drury**—The \$50 is the bottom line of collecting our revenue. That is not the same thing as an ICD. The ICD is \$250.

**Mr FITZGIBBON**—Let me put it another way to remove the complication. Would it not make sense to have the threshold at a point that reflects the cost of the service generally?

**Mr Drury**—That should always be the intention rather than just to throw money away. If something is costing \$30 then you either make it more efficient or you recover the \$30. Yes, I agree.

**Mr FITZGIBBON**—Would you say at \$50 we are at the appropriate level, or do you think it is too high?

**Mr Austin**—Perhaps I can answer that question. The \$50 is probably more related to the cost of processing manual entries—

**Mr FITZGIBBON**—Of which there are now very few.

**Mr Austin**—Yes, but it was probably set at a time when there were more manual entries being processed than electronic entries.

**Mr FITZGIBBON**—So therefore you would agree that it is an appropriate time for a review of that?

**Mr Austin**—Yes, I would agree with that.

**Mr Drury**—We are having a look at it.

**Mr Austin**—Just in terms of the ICD, we are currently, at the same time as the Nielsen survey, doing a snapshot at a much lower level than we would normally take a costings snapshot at. It is to look at the true cost of processing ICDs. That information should also be available about the same time as we get information back from the survey.

**Mr FITZGIBBON**—On the basis that this inquiry was basically prompted by the concern of domestic small business about their uncompetitiveness, that should be good news to the industry, that you are going through the process of reviewing that threshold level. That is the sort of thing I would have thought they are looking for.

**Mr Drury**—It depends, I suppose. If they think we will reduce the \$50 then that throws in a large volume of goods for which we then have to go after the revenue that they would throw up, and that would bring other costs, including delays. If we have to cull another million parcels or whatever and go after that additional revenue, then we have a lot of hard work to do to calculate what on earth that would mean for everybody.

**ACTING CHAIR**—The Nielsen survey and the review of the ICDs are due around late November but it sounds like—from what has been said—having got that information, it will then take some time for Customs to actually analyse and review it.

**Mr Austin**—Yes.

**ACTING CHAIR**—When do you think you will be at some sort of conclusion of what is the way forward from your end on these sorts of issues?

**Mr Austin**—That is a very good question.

**ACTING CHAIR**—I was afraid it was!

**Mr Drury**—We have to discuss it with Treasury and Finance and other agencies as well. It is not just a decision for Customs to make.

**ACTING CHAIR**—Sure, because from our point of view, in terms of our terms of reference, it is one of the issues. The sort of information that you will be considering and the conclusions you will be reaching are central to some of the things that we are actually looking at ourselves. It has implications for us too, I guess.

**Mr Drury**—I understand that, Mr Chairman.

**Mr Austin**—We are trying to get this through as quickly as we can to try and meet the timetable of this committee. There are some other issues that you should be aware of in looking at the actual costs involved by lowering some of the thresholds. If you start looking at lowering the thresholds for the duty limit, for instance, it means that we have to change other concessions that operate under Customs like the gifts concessions

that we operate and also the passenger concessions because they are tied to the limits that we impose on parcels coming through as well. The duty limits for low value goods do not stand alone, they have other things that they impinge on on the periphery.

**Senator GIBSON**—You will be pushing the limit up rather than down.

**Mr Drury**—Yes.

**ACTING CHAIR**—We will need to have you back when those surveys have been released, but given you are talking late November, and given you then have to analyse and review that information and have discussions with Treasury and so on, I would be surprised if you reach any conclusions until January-February. Would that be correct?

**Mr Austin**—Yes.

**Mr Gulbransen**—Mr Chairman, could I just make one comment on setting the revenue threshold at the cost recovery level: in those circumstances, for instance with jewellery which has a combined duty and sales tax rate of about 38 per cent, if you imported a \$100 consignment and our cost recovery was \$20, we would in fact be collecting from the importer \$58, not \$20, because we would be collecting the cost recovery fee and then the amount of revenue involved. So the consumer would be paying what he would see as close to 60 per cent.

**ACTING CHAIR**—So cost recovery is being seen as a separate exercise from the question of revenue?

**Mr Gulbransen**—Completely separate from revenue as such.

**ACTING CHAIR**—I think we have pretty much done that area to death.

**Mr Drury**—There is one other very important thing that I would like to say to the committee because it is pretty fundamental. You must understand—and I was almost going to make this point when Mr Fitzgibbon was asking about the values put on packages—that when a package arrives, and it does not matter whether it is an air freight package or a postal package, there is absolutely no indication whatsoever as to how those goods have been ordered—none whatsoever. In fact, it is a matter of indifference to Customs as to how that ordering took place. What we are interested in is an object, and outside the package should be a little label or a document sticky taped to it saying it cost \$200. It does not matter to us at all whether that was Internet ordered or paid by credit card.

**ACTING CHAIR**—But the implication for Customs, and given the circumstances of the Internet, is that there will be massive increases over time in importation through those processes which will largely result from the Internet. Therefore, regardless of whether it comes from the Internet or whatever, it is still a question of its being a

management issue for you.

**Mr Drury**—I suppose we are seeing quite a trade at the moment, but we do not know what volume of that trade is mail order as against Internet order—you just do not know. There is a fair bit of oomph in the mail order business these days as well. Before I came here this morning, I watched some people on television who were clearly advertising products one after the other where you just rang an 1800 number and ordered the goods and away they went. The point I am making is that I know of no system that forces anybody to say to us that these goods were ordered one way or the other. Hence we do not know if there is growth in, say, fishing tackle or in other sorts of commodities, garments for example, and whether they are getting a kick along because of the Internet or because of a fairly hefty mail ordering scheme.

**Mr Austin**—We actually had a look at the fishing tackle means of ordering. We even went to the extent of putting a small order in ourselves over the Internet to find that it was particularly more complicated than ordering it through a mail order process on catalogue. The company we put the order through puts a catalogue as well as advertising on the Internet. One of the results we found was that—with the few items that we ordered, which had a low value of just over \$A100—even if the duty and sales tax had been paid, it still would have been cheaper to have imported them from overseas—that goes for some of the items to a significant extent. There is about a 30 per cent saving on some of the items, duty and sales tax paid.

**Mr Drury**—That is purely a dividend of the lack of on-costs and structure costs. The other thing I would point out is that, when we have spoken to our colleagues in New Zealand and Canada, the most quoted example is electronic commerce or the Internet being used to order books and then you get CDs and other items after that. But with books there is neither duty nor sales tax, so if there is a screaming graph taking off like that on the electronic commerce trade in books—

**ACTING CHAIR**—You would not even know about it.

**Mr Drury**—We do not know about it, and it is of no interest to us at all.

**Senator WATSON**—I am interested in some of your sophisticated means of detection—X-rays and sniffer dogs. At some of the minor ports—Cairns, Darwin, Perth and Adelaide—for receipt of air cargo do you have those sophisticated networks for detection?

**Mr Drury**—Yes, we do.

**Senator WATSON**—At each airport?

**Mr Drury**—In some cases, we will move dogs from port to port, as and when we need them, but we are installing improved X-ray facilities at various of our centres at the

moment. In fact, we have got a significant budget allocation by the government to equip ourselves with enhanced technology and, whilst the drugs side of things is not my business, my recollection is that we have got ourselves covered at those ports that you mentioned.

**Senator WATSON**—Are there any ports of entry for overseas aircraft that do not have sophisticated detection processes or rely from time to time on bringing sniffer dogs on a random basis?

**Mr Drury**—Yes. For example, you will get a regular service in and out of Port Hedland to Bali. We do not have facilities like that there, but if we had information that warranted either equipment or dogs being used at Port Hedland, we would send them there. We also use mobile X-ray equipment. It is the same equipment that US and Canada customs use. These are X-ray machines that are mounted in vans and you can actually put the items in through the back or through the side, depending on the size and shape of the object that you wish to X-ray.

**Senator WATSON**—And that is what you use at Port Hedland?

**Mr Drury**—It is a long drive to go from Perth up to Port Hedland. I do not know if we have taken the stuff up there, but if we had to we could do that. The passenger traffic through Port Hedland is not great, and the number of Customs officials at Port Hedland is enough to give pretty close scrutiny of passengers as they disembark from flights.

**Senator WATSON**—Including goods?

**Mr Drury**—Yes.

**ACTING CHAIR**—At this stage I think it is probably best that we call it quits unless there are other questions from members of the committee. Although today has been very useful for us in terms of putting a bit of context to some of the things that we are considering, I think what has come through clearly is that it is going to be a lot more important for us to get you back once the surveys and the ICD results are through, and so on that basis, I will close the hearing. We look forward to hearing from you again as soon as you are able with respect to the detail on those survey results.

Resolved (on motion by Senator Watson):

That, pursuant to the power conferred by section 2(2) of the Parliamentary Papers Act 1908, this committee authorises publication of the evidence given before it at public hearing this day.

**Committee adjourned at 12.13 p.m.**