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JOINT COMMITTEE ON CORPORATIONS AND SECURITIES

Reference: Fees on electronic and telephone banking

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JOINT COMMITTEE ON CORPORATIONS AND SECURITIES

Wednesday, 23 August 2000

Members: Senator Chapman *(Chair)*, Senators Conroy, Cooney, Gibson and Murray and Ms J. Bishop, Mr Cameron, Mr Rudd, Mr Sercombe and Dr Southcott

Senators and members in attendance: Senators Chapman, Conroy, Cooney and Gibson and Mr Sercombe and Dr Southcott

Terms of reference for the inquiry:

The Parliamentary Joint Statutory Committee on Corporations and Securities proposes to inquire into the status of fees on electronic fund transactions and telephone banking. In particular:

1. the reasons for and impact of fee increases on:
   a. ATM withdrawal (own machine)
   b. ATM withdrawal (foreign machine)
   c. Telephone transactions
   d. Internet transactions
2. the availability and transparency of fee information for consumers who undertake electronic funds transactions or telephone banking;
3. the feasibility of implementing a fee disclosure regime on electronic fund transactions and telephone banking; and
4. the role of ASIC in ensuring bank, non-bank financial institutions and non-financial institution suppliers and operators of those facilities, provide appropriate fee information on electronic and telephone transaction banking.

WITNESSES

Committee met at 10.00 a.m.

HEALEY, Mr Gary, **Director, Australian Bankers' Association**

OUGHTON, Mr Jeff, **Acting Chief Executive, Australian Bankers' Association**

CHAIRMAN—I declare open this public hearing of the parliamentary Joint Standing Committee on Corporations and Securities and welcome the witnesses who will be appearing before the committee today. The purpose of the hearing is to take evidence on the committee's inquiry into fees on electronic and telephone banking. The committee has received 24 written submissions which it will consider, along with the evidence it receives during the hearings today, in preparing its report.

The committee prefers to conduct its hearings in public. However, if there are any matters which witnesses wish to discuss with the committee in camera, then the committee would consider such a request to move into camera. May I also remind witnesses that giving false or misleading evidence may constitute a contempt of the parliament. I welcome Mr Oughton, Acting Chief Executive of the Australian Bankers Association and Mr Healey, Director of the Australian Bankers Association. Do you wish to make an opening statement to the committee before we proceed to questions?

Mr Oughton—Yes, thank you, Mr Chairman, and committee members. We are pleased to be here in Adelaide today to present to this inquiry the Australian Bankers' Association submission, 'Electronic Banking and Financial Services: Providing Convenience and Value.' Perhaps we could briefly run over the main points in our submission and then we would be happy to take questions after our opening statement.

By way of background, with the technological advances of the past five years or so, the ways businesses deliver their products and services are changing rapidly as the majority of customers increasingly prefer the value and convenience of electronic based services. Against that general background, the Australian banking and financial sector is leading the way in electronic delivery of services to the community. Each of the inquiries into its financial system over the past 20 years has commented that competition and, therefore, market based pricing is the optimal way to generate benefits for consumers. Governments have endorsed this view and believe that competitive pricing is essential if the general community and the national economy are to continue to benefit from deregulation and technological developments. In our view, unnecessary or excessive regulation would jeopardise this process.

The move towards the user pays for pricing of retail transaction accounts and, therefore, more explicit fees was an inevitable consequence of the deregulation policies pursued by successive governments since the early 1980s. In this respect I draw your attention to page 8 of our submission where I quote from the Governor of the Reserve Bank of Australia last year when he said:

> It therefore follows axiomatically that if you are a borrower you are much better off under the current system, because you are no longer having to pay the subsidy to another group of people. If you were only a transactor and a recipient of the subsidy and you no longer get the subsidy you are worse off. I think that just has to happen. If you break down a system of cross-subsidies and replace it with something which is much closer to user-pays, that always happens…So the

main effect of competition is to squeeze margins, and that means that you can get a better deal in your borrowing or lending but it raises the costs for running accounts and having transactions. It seems to me that is absolutely inevitable.

Pricing services efficiently provides consumers with choice to use lower cost distribution channels and, therefore, facilitates a more efficient financial system. It is also a fairer and efficient one because consumers only pay for what they use. Australia's experience of explicit pricing indicates a significant change in the way customers are using alternative delivery systems, such as ATMs and EFTPOS. As highlighted in Mr Macfarlane's quote, this is in stark contrast to the regulated era where significant cross-subsidies disadvantaged many customers.

Banks are putting in a great deal of effort and taking care to ensure that customer relationships are preserved and developed and that the mix of face-to-face and electronic services continues to respond to the changing preferences of customers and to meet their needs for banking and financial services. In summary, the ABA endorses the policy position of successive governments over the past two decades in favour of market based pricing and the fundamental belief supporting that position; namely, that competitive pricing is essential if consumers are to benefit from deregulation and technological developments, as well as ensuring that the financial system and the institutions within it are globally competitive.

The next point I would like to make is about value. Also by way of background, the March 2000 Cannex report on fees caused a bit of a stir in many places. That report on fees does not accurately reflect the changes in the prices paid by customers for selected banking and financial products and services, something that Cannex acknowledges. It has ignored the wide-ranging use of fee free transactions, discounts, fee waivers, rebate arrangements and other special packages. It did not weight the results by market share and its average fee calculations only included accounts with fees. Some of the media and public misinterpreted the significance of the Cannex results and the ABA welcomes the commitment by Cannex to improve this publication. We will be working with Cannex to improve that publication, and we are currently.

Our conclusion is that a significant number of Australian bank customers do not pay fees at all. For those that do, the prices paid for services are relatively low in both absolute and relative terms. ABA analysis shows that, depending on the provider, between 30 per cent and 70 per cent of customers do not pay fees and charges for services associated with transaction accounts. The remainder pay between 25c and $2.30 per week for a wide range of accounts services including electronic, paper and face-to-face banking transactions. A wide range of customer segments such as pensioners, students and disabled people with special needs do not pay fees on transaction accounts at all and are provided with a wide range of electronic, paper and face-to-face products and services.

More generally, if you look into the Statistician's figures on this, in his household expenditure survey you find that households, on average, pay less than $2 a week for a full range of traditional banking products and services from all financial service providers; less than about 0.2 per cent of household income goes onto fees for a full range of banking and products and services. On average, the amount paid for services is very small, relative to household incomes and the falls in interest margins that have occurred over the past five years.

I also need to point out that electronic delivery has also greatly increased access points and convenience for customers. The introduction of electronic banking means that banks can now offer their customers access to banking and financial services 24 hours a day, seven days a week and at a time and place that is most convenient for customers. This compares with the situation some years ago where retail banking services were mainly accessed at bank branches during somewhat limited hours between Monday and Friday. Indeed, in the case of EFTPOS and ATMs, over 30 per cent of the transactions in the system occur when bank branches are closed, so there is a lot of convenience for people accessing these systems when traditional bank branches are closed or who are sitting at home on their lounge chairs using their phone or in their studies using the Internet. The scale of this investment in electronic financial services is very dramatic and the benefits derived by the community and for the national economy are equally dramatic.

The industry has taken a number of steps to help ensure that all customers benefit from the delivery of electronic banking and financial services. In 1999 the federal government, older persons groups and the industry designed a pilot program and held information and training seminars throughout Australia giving older Australians practical instruction on how to bank electronically. Community groups today continue to contact the ABA to help organise speakers from member banks to deliver the self-service banking seminars. Individual banks also have their own programs for older people.

In addition, the industry, in conjunction with the Human Rights and Equal Opportunity Commission, recently initiated the establishment of a community-wide working group which involves the consumer movement, older people, disabled people and the government to find solutions to access difficulties to e-commerce for older people and people with disabilities. That work is now well under way. A number of member banks also undertake customer education programs in this area and, as noted already, fee free accounts are provided to a wide range of customers.

I would now like to turn to disclosure. Financial service providers such as banks currently provide customers with a significant amount of information on fees. This reflects competition in the marketplace and is designed to enable customers to calculate the cost of carrying out their banking based on the number of fee free transactions that they may be entitled to, the fees incurred on the number of excess transactions and charges for using the facilities of competing providers. As the committee is also aware, ASIC has established a transaction fee disclosure working group with significant representation by member banks, the consumer movement and the ABA, as well as credit unions and building societies.

ABA member banks have given in-principle support to the ASIC transaction fee disclosure working group and agreed to contribute constructively to this working group process. The working group is well under way and has the potential to provide an important opportunity for a wide range of stakeholders to work together on disclosure issues for the genuine benefit of customers. It is also the appropriate vehicle for examining the issues raised by calls for the introduction of changes such as real-time disclosure at a time of rapid technological change.

Advocates of real-time disclosure of fees for electronic banking do not pay sufficient attention to the significant technology constraints currently applying and the high cost of implementation involved. We have tabled a report here today that has come since we did our submission, and it is by the US Government Accounting Office. It has particularly looked at ATMs and I would like to draw your attention to some of the findings there.

The main findings of the US study were that real-time disclosure is technically feasible, but probably in the next two to three years, and it would require extensive restructuring by all major participants in the US ATM industry. As we believe in the Australian case, extensive alterations to hardware and software would be needed. In that document you will find that in the US there are currently too many unknowns, including dependencies on other industry participants, to estimate with any precision costs or time frames. Cost estimates for software and hardware changes alone range from $5 million for a large third party processor to tens of millions of dollars for larger banks. Again, the time frames they are looking at are something like two to three years time.

Their report also highlights that the consequences of foreign fee disclosure with ATMs may offset any consumer benefits. US bank regulators received few complaints on the disclosure of ATM fees. In the US only a minority of ATM cardholders pay foreign ATM fees and the number of foreign ATM fees is declining. This highlights the need to properly and rigorously test proposals with customers.

Turning to the issue of surcharge in the terms of the inquiry, I would just like to note that Australian acquirers do not currently surcharge for electronic funds transfer and, as a result, such disclosure is not really warranted or an issue in Australia at this stage. However, the ABA would support disclosure of such a surcharge should this practice emerge in the marketplace.

Again post our submission, we have also noted this committee’s interest in the issue of disclosure relating to the very small number of customers where accounts have chronically fallen into arrears. Our discussions with members to date find that practices vary somewhat across the industry. Not all banks keep so-called shadow ledgers. Some do keep them but only stop issuing statements when a write-off occurs. Even then, some banks do provide a statement on request where a write-off has occurred. We believe that the best place to resolve this issue is not in legislation, but to refer it to the review of the code of banking practice which is currently being undertaken by independent consultant Dick Viney.

I now turn to our recommendations. Based on these considerations, the Australian Bankers’ Association recommends that the committee endorses the basic position of the various inquiries into our financial system—that is, that competition and therefore market based pricing is the optimal way to generate the maximum benefit for the community generally and the Australian economy, with existing disclosure arrangements and requirements and customer reaction to them being the starting point of any further review of the adequacy of fees disclosure.

Proposals for changes to the current availability and transparency of fee information should be thoroughly scoped and comprehensively tested with consumers, as well as ensuring that full regard is paid to the cost ramifications of such proposals at the time of rapid technological change. A detailed cost-benefit analysis should be carried out to ensure that the expected benefits of proposed changes are fully justified in terms of the cost of introduction and maintenance as well as any potential inefficiencies they may introduce, and unintended consequences they could cause for customers. Appropriate attention should be paid to the potential implications of recommended disclosure changes for other sectors employing the same technology.

We hope the committee concludes that the transaction fee disclosure working group is in a position to continue to carry out this work. This ASIC working group is already active and broadly based, including representatives of the consumer movement, banking, building societies, credit unions, the ABA and government representatives. The ABA is recommending that inquiries and deliberations on disclosure be directed to this existing working group. Any proposals will be subject to consumer testing; the best way to ensure realistic and practical outcomes are achieved.

The committee's deliberations should therefore be directed to supporting ASIC's work, consistent with the guiding principles established at the inaugural meeting of that working group, particularly in relation to its aims being outcome based rather than prescriptive. The committee concludes that real-time disclosure of electronic fees is not feasible at this stage, given the considerable cost that would be incurred and the significantly adverse impact such disclosure would have on the functionality of electronic banking financial service, as well as the potential implications for existing arrangements for fee calculations by some member banks. The committee supports disclosure of surcharging arrangements, should this emerge in the marketplace.

In summary, the ABA's submission highlights that the vast majority of customers prefer the value and convenience of electronic based services provided by the banking and financial services sector. The ABA and its member banks believe that our submission today will—using Senator Chapman's wording in his press release of 6 August—'allow the committee to determine if the community's negative perception of bank fees matches the reality of what is occurring in the marketplace.' We recommend that any inquiry deliberations on disclosure be directed to the existing ASIC working group. Again, this working group is already active and broadly based, including representatives of the consumer movement, the ABA, as well as individual banks, building societies, credit unions and government.

We now invite your questions. I would also like to say that, if the committee would find it helpful, we would be very happy to make a start to the questions by responding directly to the eight recommendations on pages 2 and 3 of the joint submission prepared by Christine Rowley of the Consumer Law Centre. Otherwise, we would be happy to turn over to your questions.

CHAIRMAN—It might be a useful procedure, Mr Oughton, if you did address those issues, if you can do it reasonably briefly and succinctly so that we still have some time for adequate questioning from the members of the committee.

Mr Oughton—I will do my best. There might be some that you are more interested in than others, as well. They are on pages 2 and 3, and I said, of Christine Rowley's submission. The first one, I believe, is that each bank is to offer and publicly advertise a fee free banking account to customers. I would simply say that banks do this now. There is no need for prescriptive codes or legislation. Most people do not pay fees at all because of the way they manage their banking with their financial service provider. For those that do, there are ways to structure your account so that you pay no or very few fees, by having a full relationship with your bank, or by keeping a minimum balance. There are also special provisions, such as fee free and fee discounted accounts for those that might need help or have special needs; children, students, pensioners and people with disabilities are some examples of the support the banks give to those groups. Also, for those living in regional and rural locations where no ATM facilities are available some banks charge for over-the-counter transactions as if they were conducted electronically, so customers save there as well. Recommendation 2 states:

Banks to simplify fee structures so that customers can better understand the cost of using electronic banking products

Again I note—depending on the service provider—up to three-quarters of banks' personal customers do not pay fees on their transaction accounts, so for most the fee structures are quite simple. They do not need to know them if they do not pay any fees and, as ASIC's research in this shows, they are well aware that they need to keep minimum account balances if they want to avoid fees. For those that do pay fees, there is information which is provided to customers in brochures which simply and plainly states what customers have to pay in terms of each individual account. Of course, the customer can discuss this with their service provider. Number 3 states:

Banks to conduct a community education program to promote:

Internal (and external) dispute resolution processes and explain what assistance is available in the case of dispute

We believe that a community wide education program is not needed. There is a wide range of information already available. There is a banking code of practice under way and that forum is looking at that issue as well. Equally, I should note that there is an external dispute resolution process, the independent scheme conducted by the Australian Banking Industry Ombudsman which is independent of the industry and the ABA.

Recommendation 4 is for a better understanding of costs of fees and the costs of banking enabling customers to make an informed choice about what suits them best. Again, I need to point to the context that the great majority of people do not pay fees on their transaction accounts, so for most the fee structures are quite simple. For those that do, there is fee information provided to customers in branches that state simply and plainly what customers have to pay in terms of each individual account. We would encourage the customers to talk to their service providers about their needs. Again, more specifically—and we can go into this further today—the ASIC working group is looking specifically at statements and it is well under way with that statement of principle, as well as on statements. It has some guidance out there for a meeting in early September. After statements it will be looking at the Internet, EFTPOS, ATMs and the like. Number 5 states:

Banks to provide customers with information on fees and charges prior to any fee increases.

Again, the banks provide a high level of disclosure. As it stands now, when a customer signs up for a bank account or a particular service a schedule is provided outlining the fees. Regarding any changes in fees, banks must write to their customers or it is flagged in the national or local media, no later than the day the change occurs. With new fees banks must write to affected customers a month before the change occurs. In the case of ATMs or EFTPOS cards, they advise customers of separate charges for cards as distinct from account related charges. For any change or new fees, banks write a month before advising the customer.

For statements made available through ATMs and EFTPOS machines, banks set out charging relating to the use of the card. These disclosure arrangements were set up in the self-regulatory code of banking practice and also under the electronic funds transfer code. Many banks exceed these requirements. Banks have brochures to help customers minimise fees, carry up-to-date fee information in branches and online, and more specific information on the nature of fees incurred.

Banks ensure that customers using phone or Internet banking are provided with information when the facility is set up on statements, brochures and web sites. Customers are also notified before changes occur. Again, the banks are also supporters of the ASIC process, the transaction fee disclosure working group which is looking to improve disclosure further. The objective of this group is to provide consumers with the opportunity to better understand transaction fee structures applying to their accounts so they can make more informed choices.

On 6—customers using electronic products to have the opportunity to ascertain the cost of each transaction and a monthly tally of costs, prior to agreeing with a transaction—we believe that there is no hard evidence to suggest that this is a burning issue for the majority of bank customers. Again, over three-quarters of people, depending on the service provider, do not pay any fees at all. Member banks advise that real-time fee disclosure could be possible for some delivery systems in the medium to longer term in the next few years, as web-enabled technologies and Internet protocols take hold. The timing and extent of this must be left to consumer preferences and technological advances, rather than prescriptive codes or legislation. Real-time fee disclosure is simply not feasible at this stage. Recommendation 7:

ASIC to conduct regular examination of the impact of fees on the cost of essential banking services.

Putting aside the issue of the many government inquiries that we are having, I would also make you aware that the ASIC submission does not, in their words, ‘comment on the quantum of fees’. Furthermore, I draw to your attention that the RBA—the Reserve Bank of Australia—already provides very detailed reports to the parliament on bank fees every six months or so. Again, however, in general terms, user-pays pricing is where we are heading as government inquiries have supported over the past couple of decades. No. 8 states:

In cases where banks do not provide ATMs to their customers’ local community, the cost of using other banks’ ATMs should not be passed on to the customer.

This is really an issue for individual banks. However, in general terms, it is again the issue of user-pays pricing. In the case of foreign ATMs, customers get wider access and save time and search costs with their financial transactions. Again I would also highlight the special provisions that we make in the way of fee free and fee discounted accounts for people with special needs, such as children, students, pensioners and people with disabilities. And also, for those that are living in regional areas and rural locations where there are no ATMs available, some banks charge for over-the-counter transactions, if they are applicable, as if they were conducted electronically.

Lastly, people with disabilities should not be charged over-the-counter fees where they are unable to use an ATM. As we have pointed out, there are special provisions, such as fee free and fee discounted accounts for people with disabilities. I would also highlight that the ABA helped HREOC initiate a community wide working group that includes disabled groups, older people, retailers, councils, governments, credit unions and the like, to look at access to e-commerce. They are looking at ATMs, phones, EFTPOS and the Internet.

CHAIRMAN—Thank you very much for your presentation, Mr Oughton. Mr Healey, do you have anything to add?

Mr Healey—No, not at this stage, thank you.

CHAIRMAN—We will move to questions. Perhaps I might start with a few questions.

Senator CONROY—Could I just seek the guidance of the chair. Given that we have used up 30 minutes of our allotted 45 minutes and there are six of us at the table, which equates to about 2½ minutes each, I was just wondering how you are going to allocate the time.

CHAIRMAN—I think we will go through at least until 11 o'clock and not worry about a tea break. If people need a cup of tea, they can get up and get it in the course of the inquiry. Mr Oughton, you refer to the technical unfeasibility of moving, at least in the short term, to full up-front real-time disclosure of fees for electronic banking. As I understand it, when the Commonwealth Bank and Colonial merged, that very day they put a message on their respective ATMs that operating those ATMs would not longer attract the surcharge fee that it normally attracts for using an opposition bank's ATM, that in fact they were now all part of the one system. If they were able to put that good news onto the screen of their ATMs that quickly, why is it so difficult to be able to provide fee information on the ATMs to customers?

Mr Oughton—I must admit that I do not know the individual workings of the Commonwealth Bank's ATM network. I can speak in general terms here. As I understand it, it would require a major restructuring of the ATM network, substantial alterations to hardware and software would be needed and, as is pointed out in the US case, our members think this is a number of years off, something in the medium to longer term as technology advances and, in particular, web and other base technology becomes available.

Dr SOUTHCOTT—If you put aside the technical and cost implications of real-time disclosure, does the ABA have any in-principle opposition to real-time disclosure?

Mr Oughton—If it is technically feasible and has been tested with consumers and consumers want it, the marketplace will deliver that. We would have no in-principle disagreement with that type of idea as long as it is technically feasible and consumers have shown in rigorous testing that they want it.

Dr SOUTHCOTT—In your submission you talked about what deregulation has delivered to the banking industry, and I do agree with that, but I think an important part of a market is that you have information freely available. You have said that you do have disclosure, people can be aware of these fees, but what I am seeking to find out is whether you have any in-principle opposition to even more information being available and more disclosure and real-time disclosure.

Mr Oughton—No, not at all, and I would say there the ABA and its members are working very cooperatively with the ASIC transaction fee discloser group. That is the very objective of that working group.

Mr SERCOMBE—Except, Mr Chairman, in the submission that we have had, there is a paragraph at the bottom of page 6 which suggested the committee concludes that it is not feasible, but then goes on to say that ‘such a regime would impact negatively on the functionality of electronic banking, as well as having potential negative implications for existing arrangements for member banks’. I am not sure what you mean by that.

Mr Oughton—I could give a very simple example of that. I should point out that it is not feasible at this stage. As technology advances here, I am sure over the medium and longer term there will be lots of things that will become practically possible.

Mr SERCOMBE—Except the way you phrased that, Mr Oughton, suggests that there are other issues there about existing arrangements for fee calculation by member banks that, on top of the technical problems, might present difficulties for you.

Mr Oughton—Yes. As well as that, there are some existing arrangements with the way people calculate fees that would make that somewhat difficult. There are examples. You may walk up to an ATM and have eight free transactions but there may be a cheque in the mail somewhere and you do not know that that has really just taken off your eighth free transaction and you are about to get charged for the ninth transaction at the ATM. That is just a very simple example where there can be a number of transactions taking place at different points in time and in different parts of the system, and real-time disclosure cannot handle that.

Mr Healey—On page 19 we have set out the reasons why we do not think real-time fee disclosure at the moment is technically feasible. One significant issue is the fact that fees are calculated at the end of the month for consumers, in the way the systems work. The second is that the computer systems that run the ATM and the EFTPOS networks in particular are separate from the mainframe computer systems that the banks have, so to put the two together would be very technically expensive. So that is a real issue that we believe would affect the functionality of the systems at the moment if you put the two together. The issue you need to ask then is: do you wish to slow down the functionality of the system. That is a second issue.

A third is that we have been advised that you would need to undertake significant rebuilding of a lot of the call centre functionality. Given the popularity of phone banking and the speed and efficiency of it, if you introduced real-time fee disclosure of everything you are doing on the phone systems at the moment, it could grind the systems to a halt. The GAO study from the US that we have tabled with Senator Chapman had some estimates of the sorts of changes in response times that you could actually get at ATMs if you introduced real-time disclosure. It showed that those response times could slow quite dramatically. They are the three main reasons.

Mr Oughton—There is an example in the US study where, if you walk up to an ATM to do a simple transaction at the moment, it takes between 20 and 30 seconds to get cash out. If you introduced different forms of disclosure here, it would add something like another five to 15 seconds to the transaction and, again, where it is of little value to most customers who are not paying the fee.

CHAIRMAN—In relation to technological feasibility, the Securities and Investments Commission in their submission to us have proposed a three- to five-year time frame for real-time disclosure of electronic banking fees. Can I ask, (a) what is your response to that proposal and, (b), given the rapidity of technological change today, would it not be possible to even make this information available, this technology apply, earlier than even ASIC is proposing? Technology is changing very rapidly and today's technology is old hat within a very short period of time. Shouldn't new technology allow that sort of service to come onstream reasonably quickly?

Mr Oughton—Senator, I have no problems in principle with the idea that this will largely be driven by technological advances. If you noted in the consumers press release, they are talking about what ATMs can do today, from giving you theatre tickets to a whole heap of functions. On the one hand, that is what manufacturers on the supply side are saying to the service providers, but we have to really get into the precision. Obviously it is dependent on other industries, software changes; there are just a number of dependencies here that have to be worked through. In principle, what we are talking of is the medium to longer term, but these issues are to be worked through in the ASIC working group and we may well be able to have a pleasant surprise for everybody if technology advances faster than we think at the moment.

CHAIRMAN—On another issue, you queried the accuracy of the Cannex report, that it did not accurately reflect the cost of fees because it did not take into account the number of free transactions that were provided to customers and other things like that. Leaving those issues aside, does it not accurately reflect the actual increase in fees to the extent that they are charged? You might say it does not reflect an accurate picture of what the customer is charged, but where fees are charged, surely it accurately reflects this fee, whatever it might be. Fee X has gone from Y up to Z, and that reflects that percentage increase. Is it not accurate in that sense?

Mr Oughton—It is accurate in a sort of accounting sense, but if you look at the Reserve Bank studies into fees, what they go and do is look at the predominant or flagship accounts, the main accounts that people use, and have a look at the price changes on those. If you go to the RBA submission to various parliamentary inquiries, you find that when you look at flagship accounts you do not see the same types of things. The Cannex report goes into all accounts, and there are hundreds of accounts out there. You can go and pick your headline, if you like, and that is what the media and public commentators did. Sure, it is accurate inasmuch as these accounts exist and these are the prices or fees involved, but it is not accurate in the sense of what people actually use and the prices paid for the convenience and value in transaction services.

CHAIRMAN—You also said that you did not believe that individual fee information was a matter of great importance for customers, or something that was being demanded to any great extent by customers, as I interpreted what you said in response to the consumer submission.

Mr Oughton—The point that I am making is that the great majority of customers who do not pay fees either have a full relationship or are aware that you need minimum balances, and so they know enough to make sure that they do not pay fees. That is not to say they do not know a lot more about fees as well, but the great majority of customers arrange their financial affairs so they do not need to pay fees at all.

Senator COONEY—When you say 'the great majority of customers', I think the figure you put on it was 25 per cent of people pay fees.

Mr Oughton—No. Depending on the service provider, it ranges from 25 to 75 per cent of customers, so it varies from financial service provider—

Senator COONEY—Yes, but don’t you follow what I am saying? On what you have just told me now, at least 25 per cent of the customers are going to pay fees.

Mr Oughton—No. I beg your pardon.

Senator COONEY—Sorry, go through it again, then.

Mr Oughton—It depends on which service provider you have a relationship with. Seventy-five per cent of one service provider’s customers in your relationship will not pay fees. In another service provider, 25 per cent of their customers may not pay fees. There are many service providers here and it depends on which relationship you have and your particular circumstances. In their customer base it ranges from 25 to 75 per cent of their customers.

Senator COONEY—But just listen to what I am saying. You are saying 75 per cent of customers may not have to pay fees.

Mr Oughton—No, they do not pay fees.

Senator COONEY—They do not pay fees. If they do not have to, then they do not.

Mr Oughton—Yes.

Senator COONEY—But it must follow that 25 per cent in that group pay for it.

Mr Oughton—Yes.

Senator COONEY—And what I am saying to you—and you seem to be not making much of this—is, 25 per cent is a very high figure. How many banking customers do you have?

Mr Oughton—Sorry, what I am then saying is that of that 25 per cent they pay between 25 cents to $2.30 a week, which is 0.3 per cent of their average earnings.

Senator COONEY—The way you are approaching this whole thing is to say, ‘Look, we as bankers will tell you that 75 per cent don’t pay, 25 per cent do, and of those 25 per cent that do, they’re paying an infinitesimal amount. Therefore, they should be happy.’ I am wondering, in a system which is based on contract, where there has to be ad idem in the classic 19th century idea of contracts, in any event—I know it has all gone astray now—it is very interesting that you have one party to that contract telling the other party to that contract what is good for them.

Mr Oughton—No, I am sorry—

Senator COONEY—Hold on. That sounds more like the exercise of parliament passing laws than an exchange of contract.

Mr Oughton—No, I am not saying that. I am saying that you can make your choice. You can make a choice and arrange your banking affairs and financial matters so that you do not pay fees, or you can choose to pay fees. When you choose to pay fees, you will be paying quite a small amount.

Senator COONEY—Anyhow, I have interrupted. I will come back to that later.

Mr Oughton—The point about this is that cross-subsidies are coming out of the system and on a mortgage today people are saving $100 a month on $100,000 mortgage. If you have a transaction account, indeed, if you have a mortgage, there is a very good chance that you will not be providing fees. But say that you had a mortgage with one bank and you were saving $100 a month, and with another bank you had a transaction account on which you were paying a maximum of $2.30 a week.

Senator COONEY—All I am saying, Mr Oughton, is that you sound like somebody who is making a policy speech in parliament or addressing a bill in parliament, rather than a person who is looking at a contractual relationship.

CHAIRMAN—Mr Oughton, the you have just made the point that the way people arrange their accounts and their banking affairs means that they can choose whether or not they pay fees—and, I suppose, the corollary of that is, if they pay fees, the extent of the fees they pay. The results of the survey that the Bank of Boston undertook were that, in relation to automatic teller machines, where customers were made aware on the screen of the teller machine that they were liable to a surcharge for using that machine, 25 per cent of them—and I think over the time frame that was involved, 64,000 customers—chose not to use that ATM where the surcharge applied and went down the road and used their own bank ATM. Doesn't all of that reinforce the importance of maximising disclosure and maximising transparency of fees, particularly in the electronic banking area?

Mr Oughton—I think there is an opportunity to improve disclosure. What I would say in the case of foreign bank ATMs is, equally, the USGAO study, which is much more comprehensive than one bank in the US, is finding that when bank regulators look at the issue they are getting few complaints about disclosure on ATMs, and that there are very few transactions done through foreign ATMs simply because you can use your ATM here or walk around the corner and use a foreign ATM, and in most cases people use their own ATM. It is only when, say, they are on holidays in another state or there are significant search costs or they are in a hurry that you will see that type of transaction take place.

CHAIRMAN—Is there any scope for agreement between the banks to eliminate fees on foreign ATMs? We have a common cheque clearing system where there is no variation in fees between banks, as I understand it. Would it be possible to arrange a similar approach in relation to ATMs?

Senator CONROY—The ACCC are having a chat to you about those sorts of issues, aren't they?

Mr Oughton—Sorry, there are two questions here.

CHAIRMAN—Well, answer my question. I think Senator Conroy was just making a comment, rather than a question.

Mr Oughton—Sorry. I am not an expert on cheque arrangements, I will say that. In the case of ATMs or foreign ATMs, obviously customers are getting the extra access points and convenience and there are costs for linking, information management and the like. There are costs involved in providing that extra service. Whether the banks as providers then choose to take those costs on board rather than the user is not the system that is in general here today. We are moving to a better system where, as the Governor of the Reserve Bank highlights, the user simply pays for what they use.

CHAIRMAN—Is there any additional cost in using one bank's ATM as against another bank's ATM, given the automation of the overall system?

Mr Oughton—I would suggest, yes, because more signals have to be transferred and linkages between infrastructure that is about the system, but I am not an expert on that.

CHAIRMAN—What about the gradual development of non-bank ATMs—in other words, ATMs privately owned by stores or whatever—and the existence of a surcharge on top of the bank fee, which I understand the owner of the ATM, whether that be the store or whatever, is entitled to charge? Is there any standard determination of that fee and, again, does that highlight the need for disclosure? People might be unaware that there is a further charge on top of their bank fee charges if they use those sorts of machines.

Mr Oughton—I think I should leave that. I am not aware of the practices that occur with non-member banks' ATMs. I do not know if I can help you there, but I think that is a question you should be asking the store owner or the ATM owner.

Mr Healey—The only thing I would add is, we have thought very carefully about the surcharge issue. We think there is a legitimate disclosure issue there and that is something where the consumer needs to know what is going on, if that practice develops in the Australian market. The other point is, just drawing together some of Jeff's threads, it is going to be quite important as we go forward with the ASIC working group that we carefully consumer test the various proposals, and certainly ASIC's working group has a number of substantive proposals before it at the moment. It already has a draft statement of principle to improve disclosure on bank statements. Its meeting on 6 September is going to consider some specific proposals on improving Internet disclosure and telephone banking disclosure. It also has on its agenda real-time fee disclosure issues as well. I think that is a good process. There is certainly some quite significant work which that group has to do.

Senator CONROY—I wondered if you saw the recent ABS statistics which show banking is the most profitable business in the country, averaging between 20 and 25 per cent returns to shareholders. Are you familiar with that study?

Mr Oughton—No, I am not.

Senator CONROY—Do you agree with Dr David Morgan's comments this week that banks are being 'romper-stompered all over'?

Mr Oughton—I have not read those comments—‘romper-stompered all over’?

Senator CONROY—Yes. I think that is an exact quote. It was in yesterday’s paper, so I presume he gave it on Tuesday.

CHAIRMAN—He wants your definition of ‘romper-stomper’, Senator Conroy.

Senator CONROY—No. In fact, I think he could only be referring to somebody closer to your home.

Mr Oughton—I must admit that I have not read the speech or the press.

Senator CONROY—Mr Healey, did you see that?

Mr Healey—No, I have not read it, Senator Conroy.

Mr SERCOMBE—You are the chief executive of one of your major members.

Mr Oughton—I have been busy, Senator.

Senator CONROY—Do you agree that banks have social obligations?

Mr Oughton—No.

Senator CONROY—You disagree with the Prime Minister?

Mr Oughton—Our position there is that banks are very good corporate citizens today.

Senator CONROY—So when the Prime Minister goes on radio and national television and says, ‘Banks have social obligations,’ your flat response is, ‘No, they don’t’?

Mr Oughton—We could go into another 15 minutes of the reasons why. But banks are very good corporate citizens today. They pay one in every eight corporate tax dollar collected in Australia. As we have highlighted today, in areas of special need, they also provide fee free accounts to children, students and disabled people. They provide different support directly by way of donations; indirectly by their staff working within various community groups. There is a very wide range of community involvement undertaken by my members today. We do not see community obligations as necessary. We think it is better to be driven by the marketplace and the individual values of our members.

Senator CONROY—That is a no to the Prime Minister. On page 18 you make the comment that customers have enough information to be able to assess where they are at in terms of their banking transactions. Mr Oughton, how many ATM EFTPOS transactions have you made this month?

Mr Oughton—About four.

Senator CONROY—Mr Healey?

Mr Healey—About seven, I think.

Senator CONROY—This month so far?

Mr Healey—Yes.

Senator CONROY—Would you consider that the average Australian would keep a tally in the head like that?

Mr Oughton—The average Australian uses between 10 to 20 transactions per month.

Senator CONROY—I am talking about keeping track of them themselves, though.

Mr Oughton—I am putting it in its context, Senator. They have to keep track of whether they have had 10 to 20. They typically use 10 to 20. This sample of two can do it. I am not sure what the average Australian generally does in that case. But, again, the average Australian does not need to keep track of how many transactions they have done, because they simply do not pay any fees. They can use all those ATMs, EFTPOS machines, use their phone, use the Internet, all for free and not worry about the number.

Senator CONROY—I think you mentioned the ASIC working group had done some focus group testing and it is mentioned in the ASIC submission. Doesn't the ASIC working group indicate that testing shows people like to know whether they are approaching their eight free transactions a month or not?

Mr Oughton—When you look at the ASIC Chant Link research, which I believe you are referring to, what rings out for me is that most people are aware of the key points. They are aware of the minimum balances they need to have so as not to pay the fees for the services. Then there is another lot of 'nice to haves' and, equally, concern about other customers and what they are given, which I think is an interesting point as well.

Mr Healey—To take Stephen's point a little further, the ASIC working group at its last meeting on 3 August prepared what is called a draft principle of good statement disclosure. Among other things, whilst providing competitive freedom to institutions, once that is considered further—and, indeed, if it is ticked off by everyone on 6 September—it does bear very directly on this issue about people knowing a little bit more about where they are at with their free transactions, what they are up to in the lists, et cetera. I would be happy to table this as a separate document. I think it would be worth while for the committee to have it.

Mr Oughton—Gary is our rep on the fee disclosure transaction—

Senator CONROY—When did that committee start? When did it first meet? When was its first meeting?

Mr Healey—The first meeting was 15 June.

Senator CONROY—This year?

Mr Healey—Yes, and they have had one on 3 August and the next one is 6 September.

Mr Oughton—It was announced in, I believe, mid-April.

Senator CONROY—Thank you.

Mr Healey—Certainly if the committee has a view on this particular proposal, I am sure the members of the working group would welcome it.

Senator CONROY—You have mentioned the RBA report a number of times. The RBA report does identify that there are losers because of the fee increase, though, doesn’t it?

Mr Oughton—Yes, just as the governor has said was inevitable when you move from a system which involves a great deal of cross-subsidies. People perceived they were getting something in the past that was free.

Mr SERCOMBE—Who are the losers?

Mr Oughton—As he highlights in his submission, people that are high transactors.

Mr SERCOMBE—Who are they? Who, typically, are they within the banking—

Mr Oughton—They are not pensioners, they are not students, they are not people with disabilities and the like who are aware of the fee free transaction accounts.

Mr SERCOMBE—But if they are unaware of them?

Mr Oughton—If they are unaware of them they should—

Mr SERCOMBE—Then they are losers.

Mr Oughton—Yes. There is an opportunity for them to see their financial service provider and get a fee free account.

Senator CONROY—When banks check individuals’ accounts and they find there is $10,000 in there—and nowadays people are regularly phoned by a bank and advised by a bank at the teller that there are a variety of ways that they could do that, and banks make money out of that essentially—do you think it would be useful for high transaction customers if the banks contacted them and said, ‘Look, here’s a way for you to minimise your fee costs’? It is obviously difficult for a bank because that takes money out of their pockets, but do you think that would be a useful step forward?

Mr Oughton—I think that does occur today, but I am not sure to what degree. Another point that we have made in the submission today is, banks are always looking at improving the service that they provide to their customers. They want to keep their customers and it is about getting the right service and the right mix of face-to-face and electronic banking.

Senator CONROY—Banks are pretty quick, if they think there is a buck in it for them, to change consumer behaviour. What I am putting to you is that there is a disincentive for them to try and encourage consumer behaviour in this particular instance because they actually lose money if people do all switch into the—

Mr Oughton—In a competitive market place, if you are not looking after that customer, Stephen, somebody else will be ringing them up and trying to pinch them from you. It costs you a lot of money to attract customers and retain them.

Senator CONROY—We are talking about the losers here, as identified by Mr Macfarlane. There is a lot of competition for the losers. Is that what you are putting to the committee?

Mr Oughton—Mr Macfarlane's word is not 'losers'. That is your word. What he is saying is that people who have large transaction needs today are paying for what they use. Sure, they have lost something that previously appeared to be free, but it was not. Those people need to make sure they shop around and get the type of account that best fits their needs.

Senator CONROY—I am suggesting the banks could help that process. They are pretty quick at channelling customers when there is a buck in it for the bank, but if the bank is not going to get a buck in it they seem to be a bit slower in helping customers. Sometimes a phone call at home or a letter saying, 'Come in and talk to us so we can make a suggestion to you about how to minimise your fees—'

Mr Healey—Can I pick up briefly on that. One of the key things that came out of the Chant Link research, Stephen, was that the statement is seen by a lot of people as the main means of finding out a bit more about their account. Indeed, it is one of the important components of disclosure. I suppose the question you are getting to is, are there other things that can be done in addition to that? We have not done specific consumer research on the particular idea that you have, but certainly the ASIC working group is well placed to look at those kinds of things. Yes, it has a list of things on its plate at the moment but there is certainly scope in there for that group to consider particular proposals and, indeed, other proposals that it has not considered yet. If, having done some further consumer research, it is something that consumers want—and I do not know the answer to the question: Is it indeed something that consumers want?—that is an issue you could easily raise in that working group.

Mr Oughton—You used the word 'loser'. People are not losing here. They are getting very good value and much greater access to banking and financial services any time, anywhere and anyhow.

Senator CONROY—I thought we had agreed there were some financial losers. The Reserve Bank identifies that there are some people who are worse off. I use the term 'losers' but I am happy to use the term 'worse off' if you are worried about the connotation. There are people who are worse off because of the way these changes are coming through with the higher fees. That is what the Reserve Bank governor says and I thought everyone agreed that was the case.

Mr Oughton—All I am highlighting in that discussion is that they are now paying for what they use, but they also are getting something new today—access via thousands of EFTPOS, ATMs, phone and the Internet, greater convenience and service out of the system. As you charge those people for what they use you can reinvest that money and make a much better system. You are looking at it just in terms of that they are now paying for a service, but that revenue from that service goes in to build a much better system and service.

Senator CONROY—You have mentioned cross-subsidies and that there has been a shift away to this user-pays cost recovery type of model. With all the people who are not paying for these fees when they use their ATM, does that mean there is a cross-subsidy going in a different direction now? If their bank has some product that allows them not to pay at that end, then is there a cross-subsidy taking place in a different direction?

Mr Oughton—I would suggest that, as Mr Macfarlane says, it takes a great deal of time for the cross-subsidies to wash through the system. Implicit in what I am saying is that there still may well be cross-subsidies between different forms of payment mechanisms here.

Senator CONROY—But the argument is that you have to increase your fees because you have all these new products, the ATMs and all these sorts of things.

Mr Oughton—Sure.

Senator CONROY—But there is a whole whack of customers, for instance people with balances above X amount, who are not paying that fee. The people who are below that fee are paying for it, the people who are above the minimum balance are not paying for it, so there must be a cross-subsidy now taking place but in the reverse direction. That is my point.

Mr Oughton—No. What I am suggesting to you is if a person is not paying today it is because they have a full relationship with their financial service provider.

Senator CONROY—The point I am making is it is a different cross-subsidy. If they are not paying to use the system—

Mr Oughton—Excuse me, I am really having difficulty understanding what is going on here sometimes because of our friends next door laughing and carrying on.

Senator CONROY—Yes, I know. It is difficult to understand. All I am saying is there has been a change in the nature of the cross-subsidy. When you get the package, if you have more than $5,000 you are no longer paying to use that new product, the ATM. You are getting a discount but you may be paying for slightly more over there, or whatever.

Mr Oughton—I see.

Senator CONROY—You are not actually paying to use the ATM, so there must be a cross-subsidy going back the other way.

Mr Oughton—What you are I think missing, Senator, is that today they are not paying the full price for the use of all these new services.

Senator CONROY—Yes, exactly.

Mr Oughton—Nobody is. So the person who is paying a little bit now, the 25c to $2.30—as these cross-subsidies are taken out of the system it is highly likely that fees will continue to rise.

Senator CONROY—Does the size of the balance make a difference to the cost of usage?

Mr Oughton—No, the size of the balance makes a difference to the profitability on the relationship because that balance then involves interest income as well, rather than just the cost of the services.

Mr SERCOMBE—Can I go back to what you just said. You said that it is highly likely that fees will continue to rise. Can you amplify that? Are you able to provide any quantification of that into the foreseeable future?

Mr Oughton—The point is made by the Governor of the Reserve Bank that there are cross-subsidies in the system and some services are not recovering their costs today. Equally, what will bring that about, of course, is the marketplace competition, technology and consumer preferences. It is best managed by a competitive financial system that is adapting new technology and deriving these new services in lower-cost ways.

Mr SERCOMBE—What you are saying is the people who are now paying bank fees, for whatever reason, can expect that in the foreseeable future those fees are going to rise.

Mr Oughton—Some fees may rise, some fees may fall. It will come down to something like the Internet will be a lot cheaper than another form of delivery system.

Senator CONROY—David Morgan is quoted as saying that it costs about 1c for an Internet transaction. I am just reading an article from 17 November 1999:

For the average transaction our customers do over the Net it costs about 1c.

It is going to be hard to make them fall.

Mr Oughton—I think at the moment they are zero for most financial service providers. That is the very essence of my point. With most financial service providers the fee is zero for the Internet, and that is the very point we have been making here. I do not know what the individual costs of my members are, or what the costs are for the different mechanisms.

Mr SERCOMBE—So where are the fees ever going to fall?

Mr Oughton—That highlights the point that I am trying to make, that in the case of the Internet today it is being cross-subsidised.

CHAIRMAN—Is it being cross-subsidised or is it a very low cost service to provide?

Senator CONROY—It is costing 1c to do, according to David Morgan.

Mr Oughton—Yes, and when we get millions of transactions over it, or billions of transactions over the next five to 10 years, that will amount to a lot of money.

Senator CONROY—For banks.

Mr Oughton—No, for the costs of providing that convenience and service to the customers.

Senator CONROY—I have a quote here from Mr John McFarlane from ANZ. He says:

Low income customers can’t afford to pay for the services that they commonly demand, and so what has to happen is that we then have to come up with new services that are at a lower cost such that they can afford to pay for them.

Do you agree with that?

Mr Oughton—That they can afford to pay for them? Yes, that is what I mean by—

Senator CONROY—No, that:

Low income customers can’t afford to pay for the services that they commonly demand, and so what has to happen is that we—

that is the banks—

then have to come up with new services that are at a lower cost such that they can then afford to pay for them.

Mr Oughton—The way I would interpret that, Senator, is that what he is looking to do is to come up with innovative new ways to provide a service to a customer who at the moment is looking for a service that is not available in the marketplace.

Senator CONROY—Do you think it is realistic that a low income customer, which is what he is referring to, is going to go out and buy a computer and hook up to the Net?

Mr Oughton—Buy a computer and hook up to the Net?

Senator CONROY—That is the sort of new technology you have talked about that is coming and is going to benefit everybody.

Mr Oughton—Sure.

Senator CONROY—But he is talking specifically about low income customers. Do you think it is realistic?

Mr Oughton—It will depend on how much service Internet based delivery provides. It may save them from going down and doing the shopping—

Senator CONROY—But there is an establishment cost.

Mr Oughton—Sure, so it depends on the amount of value that that low income person will derive from that. What I would suggest to you is that there is a whole range of systems here competing with each other, some of which are in the form of face to face, electronic and the like. Some of those are very low cost. We are talking about something from 25c to a bit over $2 a week, something that is 0.3 per cent of the average earnings.

Senator CONROY—Average earnings is about $38,000 now. We are talking low income customers, so it is going to be a much higher percentage for a low income customer.

Mr Oughton—We can divide the income by a third and we will get to 0.9 of a per cent—not one per cent—so less than one per cent of the person’s income. And those people may well be in these other special groups that we provide fee free accounts to today.

Senator CONROY—You have argued that the fee income is only about one per cent of revenue totally to banks. It is in the submission on page 23. In the first paragraph you estimate it is one per cent of bank revenue. Do you think the amount of angst that is caused in the broader community and the negative reaction to banks is worth one per cent of revenue?

Mr Oughton—You have to look at the benefits and the two sides of this coin. This competitive and very innovative financial system is providing very good service to customers. At the same time it is meeting this resistance to the user-pays system, which is the best way to continue these benefits being driven into the future. We have to do a much better job of explaining why these fees occur, helping customers to arrange their business or their relationship with the service provider that suits them best and, on the disclosure side, making them fully aware of the different types of fees and charges that exist today.

Senator CONROY—I am conscious of the time. I could go on for hours but I do not want to delay the inquiry.

CHAIRMAN—Dr Southcott.

Dr SOUTHCOTT—Thank you. Just as a point of clarification, what are the prices that are set for fees based on? Are they based on some form of cost recovery or are they set arbitrarily?

Mr Oughton—They are set in a competitive marketplace by banks competing with each other and seeing what customers will bear. It is a competitive marketplace of demand and supply.

Dr SOUTHCOTT—I have not compared the fees of different banks but are they all of a similar nature and similar price?

Mr Oughton—They are similar although, as the submission highlights, for the different financial service providers there is a range of customer experience, isn’t there? Between 25 per cent and 75 per cent do not pay any fees, depending on the service provider. There is a lot of competition on the offerings. It pays to understand what your needs are and to see your financial service provider to make sure—

Senator CONROY—Even David Murray from the Commonwealth Bank has admitted that the fees and charges area of banking is the least competitive are of banking product.

Mr Oughton—Sorry, it is not competitive today in the sense that there are still all these cross-subsidies involved in it, Stephen. That is going back to the point of the discussion we had earlier.

Senator CONROY—I think what he is talking about is the interest rates. It is a very competitive market for banks. It is very hard to pass on costs through interest rates—I think that was his argument—and the least competitive areas of banking service provision are the areas hit by the fees and charges. That was David Murray from the Commonwealth Bank. You are arguing that there is a very competitive market for fees and charges, set on what customers can bear. I am putting to you that it is not a competitive market in this area. The new technologies that are enjoyed by many in the community are not enjoyed by the low income customers. It is not competitive for them. Even David Murray is prepared to concede that fees and charges is the least competitive of the areas the banks provide service in.

Dr SOUTHCOTT—Are those fees a price signal or are they actually based on the cost of the services?

Mr Oughton—I think you have to ask. As I said, how the banks determine their individual prices is an individual bank pricing matter that you need to take up with them.

CHAIRMAN—From your perspective, you have argued that real-time disclosure of electronic banking fees are not feasible in the immediate future.

Mr Oughton—Yes.

CHAIRMAN—What about a better disclosure on hard copy statements the customers receive periodically, whether that be monthly or whatever? I note that the Securities and Investments Commission in their submission argue for that and argue that that should be introduced very quickly. They give an example where they extend the type of disclosure that the National Bank already provides so that people get a detailed break-up of the nature of each individual fee that they are being charged rather than just an aggregate advice.

Mr Healey—That is a live issue now with the ASIC working group. What we have done on that is develop a draft statement of principle on statement disclosure which I think I have left with you.

CHAIRMAN—That is this document?

Mr Healey—Yes. The situation with that is that institutions, our members—the building societies and credit unions as well—have been asked to consider that and form a view on whether they would be prepared to sign up to that. They will be coming to the meeting on 6 September with their views on that, including having had a look at how that would meet with the needs of their own customers. I think, in short, that is a live issue and it is a real issue that ASIC has focused on very early in its process for the precise sorts of reasons that the Chant Link research showed—that is, that statement disclosure for many people is a very important thing. I cannot actually foresee the outcome of the meeting on 6 September but certainly the early signs on that issue are very good.

Mr Oughton—There is one last thing that I would like to add, Senator, related to the discussion that we have had here from Dr Southcott and Senator Conroy. I draw your attention to what was in the *Australian* today, where some quotes from one of my members indicate that the Reserve Bank analysis suggests there is $400 million to $500 million collected in fees here, but the costs associated with this system are $1½ billion. That gives you a bit of a flavour of somebody who may well be in a position to estimate the costs of the system that are not being recovered today.

Mr SERCOMBE—So with the user-pays principle we can look at a tripling of fees?

Mr Oughton—No. That does not necessarily happen because there is a demand side here. If Australians do not like fees, you will not be packaging your services to highlight fees because the customer does not want that. You will be better in a competitive marketplace to position yourself somewhere else, with not so many fees but more interest charges. Depending on what the customer’s preferences are and what happens with technology, you may well still have this cross-subsidy to some extent as we go forward in the next five to 10 years.

Senator COONEY—You keep talking about the competitive marketplace, but for the marketplace to be truly competitive you have to have a contractual system working well, have you not?

Mr Oughton—I am not sure what you mean by the contractual system working well.

Senator COONEY—You have been talking about the market, you have been talking about the marketplace and the market forces. A marketplace and a competitive society such as we want is underpinned by the law of contract, is it not? How else can you have a marketplace if you to not have a law of contract? How can you have a competitive marketplace?

Mr Oughton—I understand that point now.

Senator COONEY—This is the point I was making to you before. To have a proper contractual basis you have to have some form of equality on either side of the equation, haven’t you? This is the point I was making to you before. You cannot have a marketplace where there is one person in the marketplace that determines what the conditions will be.

Mr Oughton—We do not have a marketplace—

Senator COONEY—No, but is that right?

Mr Oughton—I think in a theoretical, academic sense that is correct.

Senator COONEY—Yes. I am talking about a theoretical, academic sense because you keep using these phrases ‘marketplace’ as if it really operates, and ‘competition’ as if it really operates. What I am trying to point out to you is that in fact it does not. And how can it operate if you impose fees, you say, on only 25 per cent of the people? Whether it is 25 per cent or 10 per cent even, and whether it is a low figure or not, shouldn't you in a competitive marketplace that is truly a competitive marketplace have knowledge on both sides of the equation and not on the bank's side? You see, a lot of the problems that we are getting here come from the fact that people are not being told what happens. They do not know the fees that they are going to have to pay. It is not made clear to them that you are charging them fees and you do not seem to have addressed that, as a matter of contract.

Mr Oughton—Okay. I think I—

Senator COONEY—Before you get to that, do you understand that, when I go to you as a new customer, the contract is made then for a series of transactions that will follow, or do you see me as coming to the bank to form a new contract every time I come, whether I have been there before or not? In other words, is each transaction a separate and distinct contract or is each transaction part of an overall contract? I think that question is important as to how we approach this issue of what the people know.

Mr Oughton—In general terms, the way I would respond to you is that when you look at something about competition, whether it is competitive or not, you would look at barriers to entry and exit and the like, and customers' behaviour as to changing prices and how sensitive they are. We have many an inquiry into that and have got to the point that we have a competitive marketplace. The second point I think you are making—

Senator COONEY—You say that you have a competitive marketplace—

Mr Oughton—It would take a lot—

Senator COONEY—Could I just check, because this is what you are saying the whole time. For example, you put in a document from America. How do the banks run in America? You have more than four banks in America, do you not?

Mr Oughton—Sorry, we have more than four banks in Australia as well.

Senator COONEY—No, hold on, you have—

Mr Oughton—It is not an issue about the number of banks. It is an issue about contestability.

Senator COONEY—Can you understand what I am saying? This is what you are doing to your customers, I think: every time you are asked a question, you say, 'No, it's competitive forces. I'm telling you it's competitive forces.' I then ask another question. 'It's the marketplace. I'm telling you the marketplace operates.' I then raise the question, 'Is it truly competitive?' You say, 'Of course it's competitive.' 'Are your fees fair?' 'Of course they're fair, everything is right.' You are saying that but you have never, it seems to me, looked at what the customer is saying, deep down. You listen, you come to inquiries, and you say, 'Yes, we love the customer. We're going to hear the customer. Yes, we're going to be competitive,' but it seems to me that the attitude the banks are displaying—and, with great respect to yourself, you are displaying—is that there is a closed mind about what the issues are. 'ATMs are expensive. It costs us much more money than in fact we recover, therefore you shouldn't complain, customer. You're not paying any money therefore you needn't know what we're charging.'

That is the way it is coming out and I am just very interested in the approach the banks are taking, because if you look through the rest of the submissions we have, there is an outpouring, I can tell you, from customers who are very upset. It seems to me one of the things they are upset about is what they do not get to know and that the bank is not inclined to tell them. What they will tell them is, 'Look, this is good for you,' but to talk about this as a competitive marketplace, talking about this operating in the sense that Adam Smith might have wanted to operate, is just nonsense.

Mr Oughton—I think I need to make two points here. First, I refer you back to the Governor of the Reserve Bank point about moving from that regulated regime into one where you are taking out cross-subsidies and into a more competitive marketplace. The second point on this issue of contract: you are right, there are two aspects there. You have a marketplace in which there are consumers and providers and the provider should disclose all the information that the customer needs to make an informed choice. We have a mechanism here that has been set up and is working well to review disclosure—as has been highlighted today—as they relate to statements, EFTPOS, ATMs and the like. I believe you are right to highlight that there is an issue or there is an obligation on the provider's part to make sure that disclosure is very good and excellent, and we are looking at ways of improving that in this ASIC working group.

Senator COONEY—Can I say something. This is the last thing, I think. When you say that banking market is deregulated, ought to be deregulated, I put it to you it has not been deregulated at all. What is happening is the regulation of it is moving from the parliament into the banking industry itself. That is who is regulating the banking now—the banks—not the parliament, and that is the real problem in this. The point I want to make about that is that all these rules—what they will charge for electronic banking, what they will charge for everything, how you will go about it—are decided by the banks themselves. And they get over this by saying, 'It's a competitive market.' Why do you say it is a competitive market? Because Mr Oughton—lovely man as he is—says it is?

Mr Oughton—I just have to again point out to you, Senator, that we have had many inquiries over the past 20 years and the governments have endorsed the way we are going.

Senator CONROY—The Prime Minister is not endorsing that now. The Prime Minister is regularly stating on national television and national radio that banks have social obligations. That is not a ringing endorsement of what you are describing.

Mr Oughton—Can I finish the point over here first, Senator? We are working on a number of fronts, trying to improve the point that you are making about disclosure, but in this world where you have a provider and a customer, consumer preferences are very much a part of the marketplace. So is technology. Any unnecessary or excessive regulation would jeopardise all the benefits of the deregulation of the past 20 years. The economy as a whole and the people of the country as a whole have benefited enormously from financial deregulation.

Senator COONEY—Shouldn't we go to the American system and say banks can only operate within the one state?

Mr Healey—That was the system. There is some literature I might shoot through to the committee on this, that actually substantially ramped up the costs of the banking system to the consumer in America. We will send you some stuff on that.

Senator COONEY—Yes, but can you follow what I am saying—and this is my last comment—

Mr Healey—The reason it substantially ramped it up is because the banks in America ended up with a scale that was inefficient.

Senator COONEY—But what I am saying to you—and I keep coming back to this—is that what you are saying is you are making the decision for the customer. You are saying, ‘The costs go up, therefore we ought not take that system.’ You do not, it seems to me—and you have not throughout your submission—address the interest of how the customer sees it—wrongly, perhaps, but how the customer sees it.

Mr Healey—I understand your point; I am happy to talk about this more after we finish here today. The point I can only make is that that customer, for example, that has a mortgage today is hundreds of dollars better off—depending on where you start these types of calculations—than five, 10, 20 years ago and, if they do pay fees, a couple of dollars a week. That, in my simple view, is a much better system.

Senator COONEY—Shouldn’t he or she have a say in how the contract is going to be performed?

Mr Oughton—Yes, and indeed they will decide. There are a whole heap of contracts in the marketplace and they will decide which one they sign when they leave their financial service provider, and there are a whole heap of financial obligations on the financial service provider, if they make changes to that contract, to notify that customer well in advance of those changes, and effectively—

Senator COONEY—And they wait for the customer to write back and say, ‘I have considered your contract and I think that you ought to amend it’? I mean, they get about as much say in this as a worker does signing up an AWA.

Senator CONROY—Can you give a commitment for the banks that, if they start putting advertising on ATMs, they will reduce fees to customers?

Mr Oughton—Sorry, if they start putting advertising on ATMs, that will reduce fees to customers?

Senator CONROY—No, that they will then reduce fees to customers.

Mr Oughton—I am not sure how they are connected, Senator. I do not quite understand.

Senator CONROY—If they sell space on the video screen to advertise—

Mr Oughton—Oh, advertisements—to the footy or to the NFL or something?

Senator CONROY—Yes—whatever. That they will then reduce the fees to their customers?

Mr Oughton—I would suggest that in a competitive marketplace—I am sorry to use that word again, Senator—if you are going to get greater synergies out of a service that is generating more revenue, there would be opportunities to look at those types of issues. You are making something work smarter and harder. That is called productivity improvement. And that is one of the reasons why the Australian economy is buzzing along at four per cent growth right now, one of the fastest in the world.

Senator CONROY—So it is fair to say that when the banks do start putting advertisements on, and increasing their revenue from that, then customers can look forward to reduced ATM fees?

Mr Oughton—I think you will find that individual banks will make up their minds, taking account customer preferences and what the technology can provide.

CHAIRMAN—If there are no further questions, I thank you very much for your appearance before the committee this morning and your answers to our questions.

[11.30 a.m.]

CONNOLLY, Mr Chris, Director, Financial Services Consumer Policy Centre

ROWLEY, Ms Christine, Policy Officer, Consumer Law Centre Victoria

BARKER, Ms Sharon, Policy Officer, Financial and Consumer Rights Council Victoria

CHAIRMAN—Welcome. We have before us your joint submission which we have numbered 22. Do you wish to make an opening statement in relation to your submission?

Mr Connolly—Yes, thank you, Chairman.

CHAIRMAN—Please proceed and then we will move to questions following your comments.

Mr Connolly—I would like to thank the chair and the committee for giving us the opportunity to present oral evidence today to back up the joint submission of the consumer movement on this important issue. I should point out that I am also a member of the ASIC working group on fee disclosure and I am happy to take questions about the consumer perspective on that particular forum. We note that this is actually the sixth parliamentary inquiry which has considered the costs of banking in the last decade, and I have appeared before three of those. Our view is that, despite that high number of parliamentary inquiries on banking, we have received very few positive outcomes, especially in terms of fees and charges and affordability of financial services.

We note that the Bankers Association have submitted to you that you should take into consideration the recommendations of those other inquiries which suggest that banking should be left to the marketplace. I think that perhaps glosses over the fact that some of those inquiries also recommended that efforts should be made to address the problem of affordability of banking for low income and disadvantaged consumers, particularly the Prices Surveillance Authority report and the Wallis inquiry.

We believe, having sat through a decade of great reform in banking, great complexity in fees and charges, and high fees and charges, that there is now an opportunity for action, and this committee represents the best opportunity we have had in some time for action on fees and charges. We are disappointed that the banks who have come today to present—firstly, the ABA and, later, the ANZ in their written submission—have actually made no recommendations for this committee to do anything, although I should point out that the ANZ generously recommends that this committee should receive an annual report from the ASIC working group. Apart from that there are no recommendations from the banks appearing before you today for any action as a result of this inquiry.

We, on the other hand, have put in some hard work here. We have put in a joint consumer submission. We have done some consultation, we have done some original research and we have come up with firm recommendations for this committee which will lead to positive improvements for bank customers. It is our belief that those recommendations are very reasonable and are already the subject of compromises by the consumer movement to make sure that we are not demanding things which are going to increase the cost of banking.

Let us set the scene of banking in the year 2000. I think the first point we would like to make is that fees are high. The Australian Bankers Association submission, table 1, suggests that 30 per cent to 75 per cent of bank customers do not pay fees and that those who do pay fees pay around $24 to $48 a year in fees and charges. I think that should be the heading in tomorrow's papers. It should be on the talk-back radio programs that the banks have come today and said, 'There is a bank in Australia and 75 per cent of its customers do not pay fees and those who do only pay $24 a year even though they work on an average of between 10 to 20 transactions per month.' That would be resounding news to customers and probably the best news they have ever heard. I actually doubt that there is very much to back up that statement.

In the same submission the ABS data appears—and I believe that the committee might like to consider the ABS data at a higher standard—suggesting that the average consumer pays over $100 a year in banking, and that includes, presumably, all of those people who do not pay bank fees and charges. We also note that there is a lot of discussion about reductions in interest rate margins, but it should be remembered that only 25 per cent of Australian consumers, Australian households in fact, are paying off mortgages today.

The second point in setting this scene is that fees are increasing rapidly. The ABA have criticised the Cannex report which was one of the first reports to point out just how fast electronic banking fees were increasing, and they say that we should prefer the Reserve Bank of Australia report. I am extremely happy with that. The Reserve Bank of Australia report shows that in the last two years Internet banking fees have increased 50 per cent, account keeping fees have increased 25 per cent, ATM combined fees have increased 23 per cent, and on some accounts the minimum balance has increased by 400 per cent in just two years. So I am extremely happy that the ABA suggest to the committee that we look at the RBA rather then the Cannex report. Remember, this is all happening in a period when inflation has hovered between one and 2½ per cent.

I think the final word should go to the ABS on their statistics. They have decided that on their figures bank fees amount to a higher proportion of household spending than either heating or public transport. They have decided to add bank fees and financial services costs to the CPI basket from this year, and that financial services costs will represent a staggering six per cent of the CPI basket from this year onwards. It is a reflection that the other costs to households, especially in telecommunications, postage and electricity, have either reduced or remained in contact with inflation rather than increasing by 50 per cent, 23 per cent, 400 per cent.

The third item I would like to say in scene setting is that we believe there is a need for an affordable bank account for low income and disadvantaged consumers. We are extremely happy that the banks are recorded in *Hansard* today saying they are happy with that, that they agree there is a need for affordable accounts and that there are already affordable accounts and they will happily promote those accounts. Now all we need is a recommendation from this inquiry to make sure that those accounts are promoted, that they are advertised, that they do meet minimum consumer standards and that consumers have access to those accounts.

The fourth point I would like to make in terms of scene setting is that disclosure, especially concerning the costs of electronic banking, is non-existent in Australia. The costs just are not apparent when you are using an ATM machine, when you are telephone banking, when you are banking on the Internet. ASIC has recognised this and has established a working group and this committee has been established to address that very issue. Rather than come here today and make no recommendations and suggest that this committee just do nothing, we have presented a paper which sets out a number of very specific options for improving fee disclosure, and I will take you through those briefly now. It is appendix 5 of the consumers submission.

As to bank statements, we are quite happy to see improvements in bank statements but it is our belief that that is after the event and is not a high priority. All we are seeking there is some sort of voluntary improvements with a review after two years by ASIC. We are not suggesting there needs to be any radical or legal or regulatory changes. On brochures: we believe that brochures could be improved and supplemented with more personalised information, and we suggest that the committee might consider the Citibank brochures and their personalised letters sent to customers when you open an account as a good template for best practice in the industry.

But again we are not seeking a code of conduct, we are not seeking legal changes, we are happy to have a look at that again in a couple of years to see whether there have been improvements. Branch signage: we make no recommendations about branch signage being improved although we would be happy for a trial to be conducted to see if that had any impact.

On telephone banking we have two very specific recommendations. The first is that an option should be provided, for example in the telephone banking menu, to allow consumers to ascertain the cost of this transaction. We believe that this is technically possible. We have set a one- to two-year time frame which I believe is a lot shorter than the time frames proposed by the banks or the regulator, and we believe that that should be in a law or in the code of conduct. Additionally, we believe that there should be a menu option to discover general information about the costs of your account. For example, you should be able to find out over the telephone how many free transactions you have per month.

In Internet banking again we make a very specific recommendation. We believe the options should be available, for example, by using a hotlink, to ascertain the costs of this Internet banking transaction. Internet banking transactions costs have risen by 50 per cent in just two years according to the Reserve Bank of Australia. This will be the best option for improving consumer understanding of those costs. Again we believe that this can be achieved in a shorter time frame than that proposed by the banks or ASIC, and that it should be contained even in the law or in a payment system code of conduct. Again, we believe that this will be supplemented by personalised information about the costs of running your account.

Now we turn to ATMs, one of the more controversial elements of electronic banking in terms of disclosure. We note that there are many layers of fees for ATMs. There will be a fee for using your own bank's ATM if either you have gone beyond your minimum balance—you are below it—or you have gone beyond your amount of transactions which are free. There are also non-network ATM fees, often called foreign ATM fees, and there are surcharges. There are not many surcharges in Australia but people should note that in just one year from the time that surcharges ended being banned in the US, 80 per cent of large bank ATMs carried a surcharge—

in just 12 months. So we should not be complacent about surcharges. They can come in very quickly and be very expensive for consumers.

Our recommendations on ATMs again are quite specific and are influenced in part by constant calls from the providers of ATMs that they are able to upgrade ATMs to deliver a range of new services. An article in the *Financial Review* just two days ago says that the major provider of ATMs to Australian banks was looking at dispensing stamps, telephone cards, tickets to major sporting events, smart cards, movie tickets, phone cards and concert tickets, and delivering transaction records and bill payment all through ATMs, and yet no-one ever talks about delivering the simple cost of a transaction through an ATM. They are looking to do that over the next one to two years.

So our specific recommendations with ATMs are that there should be an option on the screen menu of ascertaining the cost of this ATM transaction, and that that should appear within a law or a code within two years time. There should be information about general fees and charges available from the ATM as well. We believe the signage on ATMs could be improved to list separately those cards, EFTPOS and debit cards, which attract a non-network ATM charge. At the moment an ATM says, ‘All cards welcome here’—no mention of costs. There should be a division between those cards which will not attract the foreign ATM fee and those cards which do. It is a simple step to amend ATMs just with drawing a line between the two.

We believe that there should be warning stickers on all ATMs that fees and charges may apply, and wherever there is a surcharge—and we believe that they are on the increase in Australia—it is absolutely essential that the surcharges are disclosed on the screen prior to entering into a transaction. We also believe that there might be some improvements by providing more fee information or perhaps a tally of how many transactions you have done during that month on the receipt. We make no recommendation in regard to EFTPOS. We believe the EFTPOS system is not necessary to include fee disclosure at this stage.

Finally, we make several recommendations about common issues across fee disclosure, and I will just go through these very briefly. We believe that there should be perhaps an ABA guideline or an ASIC guideline requiring banks to use common language terminology in describing transactions and fees. It is very confusing at the moment for consumers. We would also like banks to use a common definition of the month. People know that they get eight free transactions per month. I know that. But I have no idea whether my bank uses a calendar month, a month based on my statement date, or determines fees and charges based on the 15th of the month. For some bizarre reason, there are three uses of ‘month’ in banking circles at the moment. We believe that banks should provide more staff training regarding fees, especially new fees. It is unfair on the front-of-house, point-of-sale bank tellers, because they just are not trained about the impact of fees. That is a recommendation supported by the FSU.

Two final recommendations are that we believe that the bank should keep charges for duplicate statements, balance inquiries, et cetera, reasonable. Fee structures are so complicated that it is unfair that some banks charge up to $5 to get a copy of a bank statement mid-month. We also believe that banks should be prohibited from charging fees for checking fee accuracy or for queries about fees. Some of the banks charge consumers $45, if they dispute a fee or charge, to do an audit of just one month’s fees and charges to make sure that, ‘Yes, you were under the eight free transactions or, no, you were over’—$45.

Finally, we would just like to call on this committee not to accept the do nothing approach suggested by the banks. What we are proposing here is already a compromise. We are not calling for radical legislation or codes in a number of areas, we are not calling for the reregulation of fees and charges. It is only fee disclosure. So in those circumstances we do not believe it would be an improvement in confidence in banking if this committee did nothing.

My final point is delivered on behalf of the wider consumer movement. That is that I have to express some concerns about the process of this parliamentary inquiry. I understand there have been some difficulties, but I think a lot of consumers, especially ordinary consumers, feel that they have missed an opportunity to engage in public hearings, especially in regional areas. I thank the committee for listening, and I am happy to take questions at the end, but I would now like to hand over to Christine Rowley.

Ms Rowley—Thank you, Chris. I would like to reiterate that this is a joint consumer submission through the key consumer groups throughout Australia. It is not just Consumer Law Centre, it is not just the members here; it is numerous consumer groups and also the Finance Sector Union. The organisations that have provided contributions to this submission are the Australian Consumers Association; the Centre for International Research on Communication and Information Technologies at RMIT University, Melbourne; the Consumer Law Centre, Victoria; the Finance Sector Union—while not traditionally a consumer group, it is a community organisation that represents 85,000 members in the finance and banking industry; the Financial and Consumer Rights Council; the Financial Services and Consumer Policy Centre; and the Redfern Legal Centre in Sydney.

I am just going to go through the key recommendations. They were not just made by me, they were made between all the consumer groups and community organisations that contributed to this submission. There are two levels, as we see it, to this debate, the first being that fee burden disproportionately falls upon disadvantaged, low income and fixed income consumers. Loyalty programs generally benefit mortgage holders and high-dollar, high-value customers, resulting in the waiving of fees. Yes, it is fine to say 75 per cent of consumers are not paying fees, if that figure is correct, but who are these people who are not paying fees? And who are paying the fees? Who is the burden being left to fall upon? The consumers not advantaged by loyalty programs are left paying the fees. These are the lower income consumers, recipients of social security benefits, and other disadvantaged consumers.

To address this matter of disproportionate fee burden we ask that each bank offer and publicly advertise a fee free banking account to consumers. As Chris Connolly has pointed out, the ABA says 75 per cent of consumers do not pay fees. Well, fine, how about we start advertising it and bring it across the board for those consumers who can least afford to pay these fees? We ask that ASIC conduct regular examinations of the impact of fees on the cost of essential banking services and, in cases where banks do not provide ATMs or bank branches, in rural and regional areas—

CHAIRMAN—I am sorry to interrupt. You are going through your recommendations in your submission.

Ms Rowley—Yes.

CHAIRMAN—Were you here when the ABA were—

Ms Rowley—I was. Do you want me to respond to those now?

CHAIRMAN—As you go through the recommendations, if you would care to respond to the comments they made in their recommendations, that would give us a balanced view.

Ms Rowley—Okay. The first one, about ‘Each bank to offer, and publicly advertise’, I feel I have already responded to. As Geoff Oughton has already said, the banks already do it. Well, why don’t we make some finding towards the banks doing it? Why don’t we say, ‘Hey, the banks should do it,’ instead of just leaving it up to them? Regarding:

ASIC to conduct regular examination of the impact of fees on the cost of essential banking services.

We feel if the banks are left to regulate themselves they can go off and do what they want. How about we have some external regulator? Chris has already touched on this. The working group is going on, but how about the working group keeping an eye on how things are going? That could become a yearly report given to the members of this committee, saying how things are going.

For rural and regional areas, I feel a big catchcry of the banks over the last 10 years has been, ‘We can’t institute disclosure because it’s not viable. It’s not profitable. It’s not economically viable. If you make us do this we’re going to close down branches and sack staff.’ Well, for the last 10 years we have seen that happen anyhow and we have not had any disclosure.

We ask that people with disabilities and non-English-speaking backgrounds should not be charged over-the-counter fees when they are unable to use an ATM. Some banks have two-year delays on people with disabilities having free over-the-counter withdrawals. If you have a disability it is like, ‘Oh, well, I’ll open my account now and try not to use it for two years because I can’t really afford to use it,’ and then in two years time, ‘I can get free access to my money. Yeah!’

The second level to this debate is information asymmetry. There is an imbalance between the information available to the banks and the information consumers have access to. This has resulted in a difficulty for consumers to make an informed choice. Choice cannot be exercised without information. It cannot be exercised after the event—a statement at the end of each month and it is like, ‘Oh no, three weeks ago I should have stopped making those withdrawals from the ATM.’ It is too late when it is after the event. Consumers need to have an informed choice.

I do not know if it is just me but there are numerous brochures at the banks and I cannot understand them all. I could have possibly 200 different types of fees on an account, so I have to leaf through and it is like, ‘Oh, no, what fee is this? What are my eight fee free transactions? Am I eligible to go out and find an account that gives me exemptions from fees?’ If banks simplified fee structures, if they had uniformity across the brochures so that consumers could actually understand them—it is interesting that in the Finance Sector Union’s survey over 50 per cent of bank staff, the online staff who are having to deal with consumer complaints and consumer questions every day, felt they had insufficient information available to them; they could not give an informed answer to a consumer’s question. So if the bank staff do not know what is going on, how are consumers supposed to know?

The next point is that the community education campaign to promote internal and external dispute resolution processes and a better understanding of the fees and costs of banking. Once again, if bank staff do not know it, how can consumers know it all? Also, if we give consumers all the information and they can make an informed choice, is it a fear by the banks they may go somewhere else? Do we keep all this information hidden? Is it all within brochures that are 100 pages long because we do not want consumers to know?

Chris Connolly has talked over our recommendations. We are not asking for anything that is unattainable. We have to compromise in making these recommendations and realise that while I would certainly love to make sweeping changes across the board, it is not viable. If we are going to have a free market we cannot have consumer movements or governments dictating exactly what the banks are to do. But we are saying, make some changes—we are a guide—and that consumers participate in this and the government participates in this.

The final recommendation is that customers using electronic banking products are to have the opportunity to ascertain the cost of each transaction and a monthly tally of fees. This is all about informed choice. The committee members may be aware that there appears to be a trend, which I have already mentioned, of the banks coming to these inquiries over the last 10 years to say that it is financially unsustainable. Well, we have seen the results of the last 10 years: increased profits, increased profits through fees, bank closures, staff cuts. How about we realise that argument is just not valid?

For an understanding of the Australian public’s response through a survey conducted by the consumer group, I would like to pass you on to Sharon Barker of the Financial and Consumer Rights Council.

Ms Barker—Thank you. I am going to talk about the megabyte banking report that the Financial and Consumer Rights Council undertook. I feel particularly responsible here to provide a consumer view because consumers have said to me time and time again, ‘Nobody is listening to us.’ So here I am giving that point of view, and please bear with me because I am a little nervous.

The survey was developed to provide an opportunity for consumers to have their say about electronic banking. In the past we have had a lot of response from experts but I believe that consumers are experts when it comes to banking. We all do banking and we all know whether it works for us or not. The overwhelming response from consumers that I have spoken to, not just while I have been doing this survey but over some years now, is that banking is not working for them. This particular survey was conducted from 1 to 30 June 2000 and we have now collected about 600 questionnaires. Due to our lack of resources—we are a very small community based organisation with very little money—we were only able to analyse 200 responses, but we have, luckily enough, received a small funding grant to look at the rest of those responses and we will be happy to provide that information to you very shortly.

The questionnaire was presented in three sections, the first section about ‘You and your bank’, which provided that socioeconomic information. In section 2, ‘How you bank, how much it costs and how the banks communicate with you,' those questions are quantitative questions. They were developed by FCRC's working group on banking. That working group consists of financial counsellors and consumer support workers. Those questions were developed out of the knowledge that they gained in their case work. Section 3 asks for 'Your general comments on electronic banking, banks and banking in Australia'. They were very non-directive questions and we have analysed them using a grounded community development research methodology which uses an inductive framework where the responses are synthesised to draw out common themes.

I will just briefly go over the analysis, if you do not mind. We feel we had a good cross-section of consumers in the 200 randomly chosen responses, a good cross-section of people from different age groups, occupations, income and ethnic backgrounds. In fact, 17 per cent of the people we spoke to were from non-English-speaking backgrounds. The majority of respondents were based in Victoria; however, four other states were covered in the sample.

Section 2 of the survey was, 'How you bank, how much it costs and how the banks communicate with you.' It revealed that more than half—that is, 53 per cent—of the respondents were unaware of the number of free transactions offered by their banks. A significant majority of respondents—that is, 86 per cent in the case of ATMs and 75 per cent in the case of EFTPOS—used and liked using those services. However, generally, they remained unaware of the specific cost associated with those products.

In contrast, a minority of people used and liked using ATMs of other banks—which was 41 per cent; Internet, 24 per cent; and telephone banking, 39 per cent. The high cost of using other banks' ATMs put people off and issues around privacy and security were problematic in relation to Internet and telephone banking. Despite most respondents being unaware of the specific cost of electronic banking products, a majority of respondents believed that the cost of banking had increased overall; 76 per cent of people told us that; 87 per cent of people said they felt this increase was unjustifiable. There was a lot of discussion about the huge profits that banks make. Some people, mainly those people on pensions and government benefits or on low incomes, told us bank fees negatively impacted on their household budgets, many claiming that they were obliged to have a bank account because their benefit went into their bank account or their employer paid them via their bank account. This was not an issue of choice—they have to have a bank account.

In relation to information given to consumers by banks about fees and fee increases, almost half of all respondents stated that their banks did not inform them or they did not know whether their banks informed them of fee increases, which I think is very interesting. When asked whether there were better ways of advising customers of fee increases, 56 per cent said yes. Some of the suggestions around that were a personalised letter with no advertising material. People found it very confusing when they were sent large pamphlets, or small pamphlets with very small writing on them, with a lot of advertisements in the envelope. They wanted plain English and they wanted simplified information. Basically, they wanted something they could understand.

Many people said that they would like verbal advice. This was particularly relevant to non-English-speaking background people who found the brochures in English completely useless, to be frank. Apparently weary of constant fee increases some people recommended that the solution was in banks increasing their fees less frequently—‘Stop keep putting up the fees and then you will not have to tell us about them’—which I think is a great idea. A large group of respondents—81 per cent in fact—agreed that the cost of each transaction and a monthly tally of costs should be provided before a consumer agrees to go ahead with the transaction. Eighty-three per cent of people we spoke to agreed that ATMs should be multilingual. I think this is a very important issue given that there are so many people from non-English speaking backgrounds in this country.

Responses which focused on vulnerable groups in society show that a significant majority of people—in fact almost 90 per cent—believe that pensioners, benefit recipients and people on low incomes should be entitled to a fee free banking account. Almost 80 per cent of people stated the government should provide cash payments to benefit recipients if banks fail to offer a fee free service. Forty-three per cent of people said that they were unaware that banks offer fee free banking accounts, which I think is very interesting, given that on most occasions those fee free banking accounts are not advertised. Certainly some people have contacted me at the Financial and Consumer Rights Council stating that when they contacted banks to ask specifically about those accounts, their staff have not known either. I think it raises this issue of relationships with banks and the consumer having responsibility to contact the bank and ask about these services, when in some cases the bank staff do not even know these services exist.

In relation to dispute resolution almost half of the respondents we spoke to stated they had experienced problems with using ATMs, EFTPOS, telephone and Internet banking and about 57 per cent of people stated they were unaware that banks had their own internal dispute resolution systems. Sixty-two per cent of people said they knew about the Banking Industry Ombudsman. However, some people in the qualitative section of the survey thought the Banking Industry Ombudsman was a toothless tiger.

In section 3 of the survey, respondents were invited to comment on electronic banking and banks in Australia; 170 people from that sample provided comment. The comments were quite overwhelming. People were quite angry. Using a grounded community development research approach we identified the themes that came out of that. There were five positive themes—and the banks will be pleased to hear that, no doubt—but unfortunately there were 15 problem themes or concern themes. I will give you a bit of an overview of what people said.

Many people said they appreciated the extra convenience that technology had brought to their banking. However, many of these people went on to describe their fear of the social and financial impacts of electronic banking. Difficulty maintaining control of personal and household finance was an immediate concern raised. It is very difficult for people to keep track of their banking habits when they use electronic banking. Broader concerns raised included the increase of the cost of electronic banking, particularly when initially a lot of the electronic banking was provided free. In fact, some people said they felt hoodwinked into adopting this electronic banking and then that allowed the banks to increase over-the-counter fees and to close branches.

Other issues raised were the increased costs in over-the-counter transactions, a reduction in bank staff and branches, an apparent lack of understanding by the banks of the needs of vulnerable consumers and a phasing out of human contact in banks. Privacy and security were huge issues in relation to electronic banking and a number of people recommended a greater role for government in relation to banks and better opportunities for consumers to have input into banking policy.

Finally, the last question, whilst not specifically focused on electronic banking, asked people to provide an overview or point of view about banks and banking in Australia. We had a tremendous response from people. Given that this survey was four pages long, we were asking a lot of people, but we received 8,000 words of comments in this particular small sample. The level of anger and distrust and the feelings of exploitation expressed in these responses was amazing. I have never put together a research report that has included so many expletives. I apologise for that, but I felt it was very important that I demonstrate to you how angry people are. And they certainly are extremely angry.

I will give you a couple of responses, if you do not mind. These are people’s own words and I have not mucked around with them: ‘Australian banks in general are extremely greedy and do not offer customer services, sometimes even at the most basic level.’ ‘Lunchtime in a bank means long queues as there are barely any tellers working.’ ‘I would say most people hate banks.’ ‘They have become a necessary evil’. ‘If there were an alternative, other than putting one’s money under the mattress, people would take their money and leave in droves.’

I would like to give you a few others, too, a little bit quicker than that. ‘I hate them.’ ‘They are greedy and money hungry.’ ‘The fees that banks charge should be drastically reduced.’ ‘It shouldn’t cost a small fortune to keep our money in banks and we shouldn’t have to keep such large amounts in our accounts to avoid some bank fees.’ ‘They are a disgrace.’ ‘Banking equals profit for the rich and bankruptcy for the poor.’ I could go on, because there are a number of pages of these responses, but I won’t, I figure you’ve got the idea!

I would like to finish up by going over the 12 recommendations outlined in this report. They come from consumers. They are:

Each bank to offer, and publicly advertise, a fee-free banking account to customers.

The issue is to publicly advertise, because there may be some accounts available but consumers do not know about them. Next:

Banks to develop customer or consumer consultative committees to allow those affected by electronic banking to have input relevant policy development.

Banks to simplify fee structures so that customers can better understand the cost of using electronic banking.

Banks to provide customers with information on fees and charges prior to any fee increases.

Clear and accurate information about fees and charges be provided to customers regularly and in a user-friendly format, such as a personalised letter (without any accompanying advertising material).

Customers using electronic banking products to be advised of the cost of each transaction and a monthly tally of costs, prior to agreeing to go ahead with the transaction.

That is a particularly important recommendation. People are very confused about their fee structures. Lots of people said to me, ‘Well, I think I had eight free transactions when I entered into the account, but I think that that has changed now. Wouldn’t it be easier if they could just tell us when we entered into the transaction, like when we go down to the supermarket and we look at the price on the shelf and then we can make an informed decision about whether we want to buy those goods or not.' Next:

Banks to provide multilingual information at ATMs.

I believe that does happen overseas and I do not understand why we cannot do it here.

Banks to offer customers personalised instruction on how to use and manage electronic banking products,

Many people said they simply just did not know how to use it and others said they were learning how to use it, but were scared of making mistakes and had been charged when they had made mistakes. That issue needs to be taken into account. There is a time period when people are getting used to it, they are likely to make mistakes and why should they have to pay for those mistakes if they have been forced into using those products. Next: 'Banks to provide customers with comprehensive information about the security and privacy of electronic banking in a user-friendly format.' Lots of people said they thought there were issues about security and privacy but they really did not know. They need more information about that. Next:

Banks to conduct a ... campaign to promote their internal dispute resolution processes and explain what assistance is available in cases of dispute.

Simply, too many people did not know that banks had their own dispute resolution process.

Banks to cease reductions in over-the-counter staff and bank closures. Government to take a greater role in regulating the behaviour of banks.

That is a bit of an overview of the report. The overwhelming issue that came through in this report was that people are confused. They did not know how much they were charged and they were really angry they were being charged so much and the banks were making so much profit.

CHAIRMAN—Thank you very much. That completes your presentation?

Mr Connolly—That does. We are happy to take questions.

CHAIRMAN—Thanks. Perhaps just before I ask a couple of questions, Mr Connolly, can I just refer to your comment at the end of your presentation regarding the conduct of the inquiry.

Mr Connolly—Certainly.

CHAIRMAN—This inquiry was widely advertised, not just in metropolitan daily papers, as is the normal case with parliamentary committee inquiries, but indeed in a number of regional and rural papers, and on top of that I did a number of media interviews on regional radio highlighting the inquiry, so we were quite hopeful of being able to conduct some hearings in regional areas. The fact is that we did not receive submissions from those areas to enable us to proceed down that path; our submissions mainly came from the capital cities, so that is the reason why the conduct of hearings has been limited to a capital city environment. But certainly the wide range of submissions we have received will enable us to consider the full range of issues of concern.

Senator CONROY—I am sure though if we received a range of submissions from any particular regional area we would be more than willing to go to it.

Mr Connolly—Right. I think that is a little bit of a chicken and egg argument. I think if the committee announced that it was going to hold a public hearing for normal consumers to be able to speak from the floor, for example, on banking issues in say Tasmania, where there are 485,000 people and only four banks with only 100 branches left, you would get a fairly decent response. I think that the formality of making a written submission to parliamentary inquiries is probably beyond a lot of people who would otherwise turn up to public hearings. I think the survey Sharon has presented does present a very strong view that government and banks are not listening to ordinary consumers. So I will take those comments on board but I believe that there are plenty of opportunities out there—

CHAIRMAN—It is not the normal practice for parliamentary committees to operate as open forums. We are conducting an inquiry into specific issues with specific terms of reference, and an open forum does not readily lend itself to addressing specific terms of reference; you tend to get a whole range of views expressed that really are not relevant to the nature of the inquiry. We do really have to rely on people making submissions to the committee and then assessing those submissions and asking a range of people who have made those submissions then to appear at public hearings.

Senator COONEY—Did the Consumer Law Centre Victoria, the Financial Services Consumer Policy Centre or the Financial and Consumer Rights Council Victoria take this matter up with the committee before today?

Ms Barker—I certainly raised it when I was notified that there was a hearing in Adelaide as I had planned to bring along a caseworker. We are a membership based organisation and our members work with consumers at the grassroots level. I had planned to bring along a caseworker who had a number of cases relevant to this issue, and had asked a number of consumers to come along and present information that was directly relevant to my report. However, I was told that I was only able to get one air fare.

CHAIRMAN—I think you have done a good job on their behalf.

Senator COONEY—I was talking about getting the regional centres made aware of these things. Did any of your organisations do anything about that?

Ms Rowley—I spoke to a lot of regional consumers in the Gippsland Valley in Victoria, which has probably a lot more disadvantaged or lower income consumers.

Senator COONEY—Did you tell them about this meeting, this committee?

Ms Rowley—They did not put written submissions in because they feel, ‘Oh, it’s the government and we can’t’—‘You do it for us. We can’t do it ourselves.’

Senator COONEY—The message I am trying to get from you is are you saying people did know about it and worked through you, or are you saying people did not know about the committee and therefore could not put in a submission?

Mr Connolly—I guess my suggestion is that if these types of parliamentary inquiries are to continue, I think someone at some point needs to think outside the square and realise—if you look back at a number of inquiries—that they do not receive submissions from ordinary consumers, but that in other consultative processes where the organisation reaches out and holds public hearings where anyone can attend and matters can be taken from the floor, that you do get consultation with ordinary consumers. That is not a criticism of this committee, that is a criticism of all committees, and I think at some point someone needs to think along those lines.

Senator COONEY—I have been on committees where that is done, for example on the Treaties Committee with the issue of CROC and the MAI as Dr Southcott knows. But what I am asking is what do your committees do? Do your organisations confine themselves to the city or do you try and get people in the country to put in submissions and ask this committee to go to them?

Mr Connolly—My centre coordinates the financial services network which is a national network of consumer caseworkers, financial counsellors, rural counsellors, legal aid workers, et cetera, and we do our best but most of those people are pretty busy with their case workload, as you can imagine.

Senator COONEY—You obviously pay a lot of attention to this. What I am asking you is, if it is that important—and I think it is myself—why don't you get them to put in submissions if you have this network?

Mr Connolly—It is basically a question of resources and timing. It is very hard for me to go to someone at the Western Aboriginal Legal Service in Dubbo and say, 'Look, stop serving your clients for a couple of days and write a submission on banking.' The only time it has been done effectively is where it has been resourced by a grant.

CHAIRMAN—But would that submission express a different point of view or have different information in it from the submissions that you have provided to us?

Mr Connolly—I think it is good to get that sort of local perspective, yes.

Mr SERCOMBE—But bearing in mind that we have heard today from the banks that they see their services as market driven, and presumably that reflects what consumers might be saying to them, and also bearing in mind, as I understand it, that we are probably operating here under privilege, are there particular—

CHAIRMAN—We are.

Mr SERCOMBE—We are. Thank you for clarifying that. Are there particular banks that are better than others in terms of these services for the consumers that you are talking about? Do you find that the big four tend to be the worst offenders in terms of reacting to consumers than some of the smaller ones? Are you able to be more specific in your evaluation of what these people do in the marketplace?

Ms Barker—Certainly the four big banks featured in my research. They are certainly problematic.

Mr SERCOMBE—Any worse than others?

Ms Barker—The Commonwealth Bank came up fairly regularly in my report, and I think there may be a number of reasons for that, that the Commonwealth Bank traditionally has provided services to vulnerable and low income people and that is the target group for our organisation.

Mr SERCOMBE—They came up negatively or positively?

Ms Barker—They came up negatively but that may be because they also traditionally have provided services to the target group that we focus on. But the four big banks have not featured well in this report, that is for sure and, anecdotally, I constantly get calls from people who are really upset about the four major banks.

CHAIRMAN—Your survey indicated a demand on the part of the people you surveyed for better disclosure of bank fees and more information in relation to bank fees. We have heard from the ABA this morning that in their view that is not at this stage technologically feasible, certainly in terms of real-time disclosure in relation to electronic banking, and also that to provide it may involve additional costs. What would be the attitude of the people you surveyed to actually having to meet the additional cost of receiving this information?

Ms Barker—I think it is clear from the people I have spoken to that they cannot afford the costs they are currently paying. They certainly cannot afford to pay any more. I think this discussion about 75 per cent who do not pay fees is really interesting, but those 75 per cent of people who have money, who the banks want, who do have choice, they can put their two grand in the bank. But the 25 per cent of people who do pay fees often are low income people. They do not have the choice of putting $2,000 in the bank, or whatever it might be, depending on the bank, so they are slugged every week. If you are on an income of $150 a week, that is your benefit, $2 a week is a hell of a lot of money just to have the privilege of receiving your cheque from the government. So I am certain that consumers cannot afford to pay any more for that.

CHAIRMAN—You also argued in your submission for the regulation of bank fees.

Ms Barker—Yes.

CHAIRMAN—I am just wondering what nature of regulation you are suggesting? Does this involve some sort of price control by the government on fees, or what is the nature of the regulation you are proposing?

Ms Barker—Possibly so. The people that we are particularly interested in are low income and vulnerable people. We feel that the government has a social responsibility to ensure that those people can access banking products, so some sort of regulation in relation to that would be very useful and very appropriate, we think.

CHAIRMAN—We have received evidence from America that suggests if you put a cap on the fees on electronic banking services in particular, that that actually mitigates against the expansion of those services, and particularly the expansion of ATM banking facilities, by reducing the general availability of services. Would you accept that evidence or do you refute it?

Senator CONROY—It flies in the face of the social exclusion arguments where banks are pulling out of these areas that we are talking about. It is not that they have been stopped from going into these areas or expanding, they are withdrawing from the areas.

CHAIRMAN—I am talking about electronic facilities.

Senator CONROY—Yes, electronic facilities, they are withdrawing—

CHAIRMAN—ATMs.

Senator CONROY—That is what social exclusion is.

Mr Connolly—I think the recommendations that have been made in the joint consumer submission are very reasonable. There is no call for any draconian measures there. Probably the toughest recommendation that we have made in the entire submission is that within two years consumers should be able to find out at the point of transaction what that transaction is going to cost, and that is really a reflection of the fact that if the banks are saying they can do it within five years then we are pretty confident that they could do it within two years with a bit of prodding.

CHAIRMAN—Absolutely. Regarding the sorts of customers that you have referred to, particularly the low income customers in your survey, have you been able to glean from your research whether they are accepting of and keen to use electronic forms of banking or are they wedded to the old over-the-counter style banking and not willing to change?

Ms Barker—Some of them are quite open to electronic banking. Their problems in relation to some of those products are that they cannot access them. They cannot afford the computer. If they have a computer they cannot afford the Internet access. Even for some people, having a telephone is problematic, and the cost of that telephone transaction, just in terms of the cost of the telephone call, may be difficult. Certainly the older people that we spoke to are pretty scared of electronic banking. That is not to say that many of them would not be prepared to have a go at it if they could do it in a safe environment and were not charged for mistakes that they make, which is another big barrier for many people. They feel that if they make a mistake then they cop the charges on that, which seems pretty unfair.

So I do not think the people are necessarily anti electronic banking but certainly different groups need different assistance to access these different products, and some groups, merely because they are on low incomes and do not have any spare money, cannot afford to get themselves geared up to use this sort of technology.

Mr SERCOMBE—This matter of being charged for mistakes, I have not heard that before. Can you be a bit more specific? If someone, for example, uses a telephone banking facilities and keys in an incorrect amount and then on the menu seeks to change it, are you saying there is an extra charge for that, for example?

Ms Barker—One example that was put to me in this report was of a fellow who said that he ended up with four PIN numbers and then he had secret passwords on top of that. He could not write them down, and so he did not know how the hell he was going to remember all of that information to start with. He then moved his money around and it had gone into wrong accounts because he was confused about the different PIN numbers and what have you, and that had cost him a significant amount of money to do that, which sounds pretty awful, doesn't it?

Mr SERCOMBE—If you were able to give some specific examples of that—obviously, for privacy reasons, removing the name of the individual—it would be very helpful.

Ms Barker—We would be happy to do that.

Senator COONEY—I have a question on the way you put your submission. The Australian Bankers Association put their submission in and Senator Conroy started talking about 'social parameters'. They said, 'No, we don't work on social parameters. We work on market forces.' That is the basis of how the Australian Bankers Association sees the banking system run. You have mentioned social responsibility on a couple of occasions. Do you ever talk in terms of an ethical basis for the conduct of banking? I was on a plane recently with Henry Bosch who used to be in charge of the National Companies and Securities Commission, the forerunner of ASIC. He goes around and, very effectively I think, talks about ethical conduct of business. That was not mentioned by the Australian Bankers Association and it has not been mentioned by you. Do you have any thoughts about that? Would you like to see the banks act ethically?

Ms Barker—Absolutely, yes.

Senator COONEY—Or are you happy to see them work according to 'market forces'?

Ms Barker—Yes, we would. Certainly that is what our submission is about—encouraging the banks to operate ethically. We believe that the banks have a social responsibility, that they are providing a service to the community. Not everybody has a choice about whether they use that service or not and certainly the banks should act ethically.

Senator COONEY—You have been to many inquiries into the banking industry before and you say it is still unsatisfactory. Do you think the community has any hope of getting the banks to act ethically?

Ms Barker—That is why we are here. We are talking to you because we need your help. I do not think the banks are going to do it on their own. I think that is the reality. The market cannot provide for vulnerable groups. Low income and vulnerable consumers need some extra protection and we see the government as picking up that role.

Senator COONEY—I suppose you would say that the market forces would mean that the banks leave out the small customer because their small customers are not going to be as profitable as people with bigger money to spread around and to go through the bankbook.

Ms Barker—Sure. I think that is partly why some of these free services are not advertised, because basically the banks do not want customers to shop around and find the best free or low-cost service. They just do not want them.

Senator COONEY—There is some action being taken by ASIC—they have an inquiry going. Are any of your organisations on that inquiry?

Mr Connolly—Yes. There are two consumer representatives on the working group—me and Louise Petschler from the Australian Consumers Association who had hoped to be here today but was unable to get here—and we have been to the meetings to date and are involved in that process with ASIC.

Senator COONEY—Have you raised this issue of ethics and social responsibility?

Mr Connolly—It is quite a specific working group. It is working through an agenda which is only looking at options for fee disclosure. ASIC recognise that their legislation does not give them any wider powers in terms of fees—the regulation of fees, the level of fees, the quantum of fees. They are pretty much stuck to looking at fee disclosure and that is the agenda of that working group.

Senator COONEY—But are you raising the issue of ethics and social responsibility within that group?

Mr Connolly—It is not coming up at all in that group as an issue. It has been raised on numerous occasions before. The Wallis inquiry went into it in some detail and dismissed it and handpassed the issue to the government. The ASIC working group has quite a specific and small agenda on options for fee disclosure.

Senator GIBSON—I know my colleague Senator Cooney asked you a general question, Ms Barker, but do you have any hard evidence of banks acting unethically?

Ms Barker—Certainly anecdotally I have had a number of private calls from consumers who have been treated badly by banks. Our members who are financial counsellors and consumer support workers suggest that banks are problematic.

Senator GIBSON—It is all very well to say that, to make the accusation that some group or other is behaving unethically, but we need hard evidence.

Mr Connolly—On that point, the consumer movement is trying to bring to the attention of committees like this examples of where we believe banks have behaved unethically. You will be aware that we assisted a group of Commonwealth Bank customers who believed there were problems in the way they were treated. We conducted a questionnaire to see if it was a one-off or was widespread. We try to get whatever evidence we can. It is very hard to get documentation of some of those activities. We presented it to this same committee in recent weeks, so we are working on that. But do not overestimate the ability of the consumer movement, without resources or legal expertise, to be able to bring forward a wide range of documented examples. It would be very hard for us to give you every anecdote that we obtain, but we are working on that new style of advocacy and, depending on how it goes on the other matter—the Commonwealth Bank matter—it might be something that you see more of.

Senator COONEY—You would say anyhow that people who have their system in form with market forces and nothing else would be a bit of a worry, wouldn't it? There is somebody who said, ‘You’ve got to choose between God and mammon,’ and probably the situation still remains.

Ms Rowley—It is also questionable whether we do have true market forces in the Australian banking industry as it is.

Senator COONEY—What is that?

Ms Rowley—If we do have true market forces. Your discussion before with Mr Oughton about the theoretical framework of, ‘What is a market force or what are market forces? Do we have it in the banking industry?’ is a very big question.

Senator CONROY—Do you think that given the recent announcement by ATM machine manufacturers that they are going to be able to do everything that we talked about before—stamps, smart cards, movie tickets, Phonecards and concert tickets—there will have to be an upgrading of technology to produce all of those? It will look a little silly if we are able to surf the Net almost, buy a movie ticket and a concert ticket, but you cannot get your real-time cost.

Mr Connolly—It is already a crazy situation that you cannot find out on an Internet site, where web-enabled technology is already used, basic information about your personalised fees and costs or the cost of that transaction, so I think we are already at that stage. And, yes, as ATMs are upgraded to provide all of this new functionality, it would be very disappointing if basic consumer information is not included in that process. But I really doubt that it will happen without a recommendation from this committee. I cannot see another process whereby it would be delivered before, say, five years time.

CHAIRMAN—Any further questions? I thank each of you for your appearance before the committee and for the answers you have given to our questions.

Mr Connolly—Thank you, Chairman.

Proceedings suspended from 12.40 p.m. to 2.00 p.m.

WATSON, Mr William Hall (Private capacity)

CHAIRMAN—In what capacity do you appear before the committee today?

Mr Watson—I am a retired bank officer with an ongoing interest in the banking system.

CHAIRMAN—We have before us your written submission which we have numbered 8. Do you wish to make an opening statement in relation to your submission?

Mr Watson—I would like to say that at this stage I feel like the odd man out here, for a start, on my own. I would like to acknowledge the previous submissions from the ABA, which is a bit like a devil's advocate, from my point of view, and the consumer people as well. Much of the consumer presentation covers a lot of what I already have in here.

Briefly, what I said was that the Australian banking system is a product of the Scottish banking system, with a fundamental principle of spreading risk, and that principle has carried on through all aspects of banking over the last 200 to 300 years. Initially, fees were not charged for anything in banking. We could say that the banks did not charge for pen and paper and ink so why should they charge for electricity coming down through the wires, but that may be a little bit simplistic. I have had 34 years experience in the banking industry and even while still working I was aware of the way fees were trending and services that used to be free were going up and up and up.

Computers certainly allowed banks to create a much greater spread of interest rates, creditor and debtor, and since collusion of interest and fee structures was outlawed in 1974—I hope that date is correct; I am going on memory—some degree of competition has been created by allowing customers to shop around for the best deal. That is fine as far as interest rates are concerned. The main cost nowadays is the maintenance of an expensive computer network. It has been offset to a certain extent by getting rid of staff, but one anomaly I have seen is that, where middle management has gone, senior staff are now getting paid higher salaries and the branches are in the hands of junior staff. That is a side issue.

Fewer staff in branches has led to efforts to discourage customers from entering the premises to conduct day-to-day banking transactions. That is something that has been touched upon. We are all encouraged to use ATMs now. Despite that, banks' profits have continued to flourish during the past decade, at the expense of providing affordable service in the fashion envisaged by their Scottish forerunners. I say that as a shareholder as well as a customer of my former employer.

The one area in which I possibly will be of more use than anything else is the historical aspect of ATM fees. When ATMs were first installed, there was free interchange amongst all the banks, even overseas. There was no perceived need to charge fees because each institution would incur the same operating costs or at least any minimal difference was not worth accounting for. The cost of collection would have outweighed the revenue gained. Unfortunately, that is a truism which applies to most aspects of banking which appears to be lost on the modern bank executive, and I know there are a lot of them back there who will not agree with me.

Anyway, an initially free service will always attract customers to become addicted to it. Later, someone in one of the banks decided it would be a good idea to recoup a transaction fee from every other bank for each operation transacted by customers of the other banks using his or her bank's ATMs. Once started, the idea snowballed and every bank got into the act and then began passing on the fees to their customers, not realising or not caring that they were penalising the customers for no justifiable reason and were adopting a policy which is contrary to the fundamental principles of banking as a community service. No bank executive was brave enough or wise enough to think through the folly which had been perpetrated, and so the user-pays philosophy was born. No longer were the wealthy to support the poor, contrary to earlier philosophy.

We have had a few words on that this morning as well, and certainly there is no doubt that the more money you have or the more money you want to borrow, the better deal you can get from the bank. The poorer customer is the one who does not get any concessions to speak of at all. Despite the fact that they really should look into this, we are assured by the ABA that only 25 per cent of customers actually pay fees. That is certainly not the anecdotal evidence I hear out in the street, and I get a lot of it. Even electronic credit cards are now charged an annual fee, despite excessive interest rates on extended payment. In fairness to the banks, they do say that the reason they charge the fee is to be able to catch people who are not using extended credit and repay their account every month, like me.

Customers are encouraged to use ATMs and EFTPOS by being charged for over-the-counter transactions. I do not think it is fair for the bank to charge and have it both ways; to be charged for electronic transactions while encouraging the customers to use the electronic methods and also to charge for over the counter. They want to have their cake and eat it too. For that reason I avoid using other banks' ATMs, et cetera, because of the fees involved.

As to fee information, certainly most customers are unaware of them. They do not have the ability to work them out, despite all the leaflets and everything that the banks have published. They are just too hard to go through. I think another problem there is the complexity and the number of accounts and the number of variations on types of accounts that are now available. Simplicity is really the customer's worst enemy. He does not have a chance of working it out. And, of course, government fees do not help, either, but they are going, aren't they, I believe?

CHAIRMAN—Indeed—one of the benefits of the tax reform.

Mr Watson—Eventually, yes. They should never have been allowed in the first place, but I am digressing. As to fee disclosure, I agree with what the consumer people were saying about fees being disclosed on statements and on ATMs before you use them, but, there again, if you do not charge fees on the ATMs, then there would not be any need for that fee advice in any case.

I do think that ASIC is probably the organisation appropriate to supervise the banks, rather than leaving them pretty much to their own devices within the provisos of the Reserve Bank's interest rate controls. This is a personal observation: even internally, regular checking of staff accuracy and efficiency through regular branch visits by internal auditors has vanished. Twenty years ago I supervised and programmed 24 internal auditors and assistant auditors who annually inspected all branches of a major bank in South Australia and the Northern Territory. Now there are none. They also investigated frauds against the bank, and I wonder how many of those now go undetected or unpunished. From my existing contacts within the bank and the police force, I would say that they are considerable. The police force does not have the time or the wherewithal to investigate them, and the banks have done away with their investigative staff, except by computer from Melbourne. How they get on with electronic fraud, I really do not know.

There is the old one about any reasonable member of the community being asked what he thought of bank profits. The universal answer would be, ‘They are manifestly excessive.’ A senior executive, my friend Mr McFarlane, recently stated that transaction fees only account for one per cent of his bank’s income. If that is so, why did they continue to charge them? I recall being told 15 years ago that each fee processed costs in the vicinity of $2 to collect. Where is the sense in that kind of accounting? I am willing to acknowledge that that fee has probably reduced because of the magnitude over the intervening time.

But it does remind me, if I may digress a moment, of the Adelaide City Council’s parking inspectors. Some years ago, they found that the cost of paying the inspectors just about met what they were getting in from the parking meters. The only benefit they were getting was moving the traffic around the streets. I suppose the banks could look at it the same way. They are moving the money around within the bank. I do not know. Such matters as fees need to be placed under the direct control of the government authority which has the requisite power to enforce changes. ASIC may well be the appropriate body.

Banks once had a community conscience which compelled them to offer many services free of charge. This benefited the less well-off in the community, encouraging them to place their small savings in a secure environment and assisted the banks by building deposit funds which could then be lent out at a higher interest rate than was being paid on the savings. It probably sounds a bit trite, but banking is the archetypal service industry and that is how it worked. Reasonable profits were made and sufficient staff were employed to provide efficient service.

An essential feature of banking has always been the depositor’s funds remained available on demand at all times, and I believe that is entrenched in common law. It is a feature which has suffered at the hands of computerisation, as many customers wishing to close accounts on the spot have discovered. It is not uncommon today for customers to wait several days before receiving that which is rightfully theirs and to be charged a fee in the process. I do not believe that refusal to pay out on demand is legal, and banks should be required to correct their shortcomings in this area. I finish with a rhetorical question: is it legal to charge any fee on the withdrawal of one’s own money?

Looking through a few of my notes from this morning, fees have increased over recent years at an alarming rate and degree of complexity. If we lived in an Islamic world, I could understand it, as Muslims are not allowed to charge interest under Koranic law. They therefore must only charge fees. Unfortunately—or probably fortunately—we do not live on that but, once again, our banks are having it both ways. As I say, initially means of banking were free but once everybody got used to them the fees started to come on. ATMs in my view complement branches. They have only a limited application therefore there should not be a fee applicable.

There is still no substitute in any industry for face-to-face personal service, something that we used to try and achieve when I was in the bank in my younger days. We had it impressed upon us if there was a customer waiting, then the next person sitting there had to get up. I had a case a few months ago where I went into a local branch; there was not a teller to be seen. There were six people standing at the counter and all of a sudden a girl appeared from round the back of the office with a tray and half a dozen cups on it. We all looked at her and said, ‘Yes, we would like one, too, thank you very much.’ It happens too often, more often than people tend to realise or admit.

There are certain other things about electronic banking which I might just comment on as well. With lending, when we did things the old-fashioned way, interest was charged half-yearly. Today’s is charged monthly; therefore the banks are making more money on their money than they ever did before: interest on interest, month by month. The ATM fee reminded me of an old thing called exchange, which used to apply 40-odd years and more ago, where interstate cheques were charged a fee to enable them to be cleared. Once the system of exchanging cheques amongst the banks became efficient, the fee was abolished. This is what I feel should have happened with ATMs, instead of the reverse. How they can expect to improve service without employing more people I do not know, and I do not really think that banks understand what low income is. If there were truly competition, fees would come down, not continually get higher. Thank you, Mr Chairman.

CHAIRMAN—Thanks very much, Mr Watson. You seem to be arguing that there should not be any fees on the services banks provide or in relation to the transactions customers have done with banks.

Mr Watson—I believe the low income customers certainly should have them free of charge. What I am saying is that I do not really believe that they should be charging both for electronic means and over the counter. They should not have it both ways. Maybe that is an altruistic point of view. I do not know.

CHAIRMAN—Would you accept that whatever form of transaction takes place there is a cost involved in providing the wherewithal to conduct that transaction? It may vary. Over the counter might be dearer, as it now seems to be that banks are charging more for that service and that might be dearer than electronic transactions, but for every transaction there is a cost to be borne. If there is not a fee charged on some of those transactions that is obviously going to have to be cross-subsidised from somewhere else. You talked about earlier days when you were involved.

Mr Watson—That is right.

CHAIRMAN—As I understand it, certainly the banks claimed that in those days the costs of transactions was subsidised by a higher margin between their borrowing rate and their lending rate. There was cross-subsidisation; therefore that offset the need to charge fees.

Mr Watson—That is correct.

CHAIRMAN—But at deregulation of interest rates the margin is much less and therefore the fees are now applying to reflect the cost of the transactions conducted.

Mr Watson—That is true. Mind you, 40 or 50 years ago nobody ever thought along those lines at all. We are subsidising creditor accounts by charging more in overdrafts. It just was not in the thinking. This is a modern departure that has been brought about by computerisation. I do not know whether people are thinking things through in more detail than they did back then. It was a more simplistic era, I suppose. Yes, there has to be some cost, and whether it be just salaries, that is a cost. Electronic transfers and account maintenance are a cost. As I said, the computer has given the banks the ability to be able to work out what its service does, in fact, cost. Whether they use that accurately or whether they use it for their own purposes to divert business from one area to another area, I am not in a position to tell, but I suspect that probably it is a bit of both.

CHAIRMAN—If your suggestion was taken up and there were areas where fees were not charged, do you think the banks would recoup the cost of that from some other area of their operation which would cost another customer more than it is currently costing them, whether that be by building it into interest rates or building it into other fees?

Mr Watson—I would certainly say that they have to get it from somewhere and, yes, I have no doubt that unfortunately would happen. I really do not have a problem with cross-subsidisation at all; the banks, for some reason, seem to have nowadays. I have always been a believer, even when I was working, in big business paying. Big business will not want to hear that either, but for the people who can afford it—that is, big businesses—it is tax deductible. It is not tax deductible for the pensioner. FID is, but that is all.

CHAIRMAN—Some would argue—maybe not the recipient of a government pension but the self-funded retiree who is receiving a private pension—that in fact receiving that pension may be a result of superannuation invested over the years in shares in the bank as one source of income. If you are reducing the banks' profits, as it were, their capacity to pay dividends, are you in fact harming some of those low income self-funded retirees?

Mr Watson—In the past it obviously worked that way, but nobody knew. Today we have become used to high dividends and, yes, I am in that position myself, let's face it. I receive dividends from the bank and I am very happy to see the size of them, but not necessarily at the expense of other people.

CHAIRMAN—You said in your submission that the majority of customers are not aware of the fees applied to each service. If greater transparency and disclosure of fees was initiated across the range of bank fees, including for electronic transactions, real-time provision of that information as well as on customer statements, do you think customers would become more aware of the fee structure and (a) frame their banking activity and (b) use their rights of choice to provide competitive pressure in the marketplace to force fees down, or stop their escalation?

Mr Watson—They probably do not see themselves as able to force fees down, but I presume you mean by moving accounts elsewhere where they are cheaper. That would have that effect. Yes, they certainly should become aware of what those fees are and be able to avoid them where necessary. I would hope that is what they do. That is what I do.

Senator CONROY—The Prime Minister recently advised all companies that they should absorb some of the extra costs they are incurring from the GST. Do you think this is a situation where banks should be absorbing some of the costs for the low income earners?

Mr Watson—Yes, I do. It is the same as FID and BAD taxes, when they were brought in. Initially there was a great hoo-ha about them, but they were all passed on, except for some. In the banks' own internal books you could avoid FID by having the bank absorb those but not too many people knew about it, and I would suggest the GST is something like that, say in the term deposit arena or basic savings accounts.

Senator CONROY—So in terms of these fees and charges on ATMs and the like, this would be where you would see that the banks should just absorb that, out of their profit line, as opposed to what Senator Chapman is suggesting, which is to make someone else pay somewhere else—just absorb it.

Mr Watson—That is probably once again simplistic. That is the word I am forced to use. Even if they did, they would undoubtedly find a way around it by adjusting the fees upwards and saying, 'No, that has got nothing to do with GST anyway.' I really think the argument is going to fall flat in any case, whether we say, 'Yes, you do' or 'You do not.' They are going to find a way around it.

Senator COONEY—I was interested that you—in the second to last paragraph, if you count the last sentence as a paragraph and the one before that—talk about the community conscience. You are really describing a different culture to the one you have now.

Mr Watson—You are probably correct there, Senator. I started in banking in the fifties where we dealt with pen and ink and paper. There was not even an adding machine in the office. We moved into machine ledgers in the sixties and, yes, there were changes. We gradually got fundamental computers in the seventies and so on. The whole system has changed enormously. But I really cannot understand why the philosophy has changed as much as it has. I am an old-fashioned anachronism, I know, as far as the modern banks are concerned. They should be a community service as well as a business. It may seem difficult to meld the two together, but that is the way I see banks. Banks are a race apart from the other types of businesses that we see around us.

CHAIRMAN—Why is that? Why do you think they are? You say they are, or should be a race apart from the rest.

Mr Watson—They are looking after a commodity which is totally different from any other type of commodity. It is a commodity which is used to acquire other commodities. They really are—or they used to be, anyway—a pillar of the community in a literal sense in looking after the money of the people around them, the citizens around them. I think that is a responsibility which should be reflected in some sort of social responsibility.

Senator COONEY—You would remember the Commercial Bank of Australia at Culgoa in the thirties. I know what you mean, having experienced that—there was a very close connection between the bank and the community, mainly wheat farmers and what have you—tiding them over the troubled times, then the farmers banking back there. There was a great trust, it seemed to me, between them—between the bank and the customers.

Mr Watson—It has changed enormously. There was that trust then. I think we went into a bit of a slide in the fifties and early sixties. People were frightened to come into banks. They saw them as being too aloof. The banks set about trying to correct that and get more people to come in and the friendly image was adopted during the late sixties and seventies, early eighties. Programs were put in place to look after the customers. Then, all of a sudden, we had the 1987 crash and it all seems to have gone downhill since then. The banks suddenly realised that they were vulnerable, I believe. They found that their interest rate earnings were enormous, but there were a lot of bad debts, so that was offset there a bit.

I think that also has a bit of a reflection on the reason why we are seeing such huge fees now. The interest rates have slid back down but they are trying to keep up the earning level, if you can understand what I mean, by increasing fees to partially compensate in case they ever get in the same boat again. But then around the late eighties they started to cut back on staff. They sent teams into branches to look at when were the busy times, when were the quiet times, ‘When can you make do with just a part-timer here for half a day?’ and this sort of thing. They took the middle managers out—that is still an ongoing process, but they have just about all gone now, I think—replacing them with what used to be branch accountants; it is that sort of level, that is what we used to call them—just under the manager—with no real responsibility apart from just running the mechanics of the branch.

Lending responsibilities and all these sorts of things have been taken out into centralised areas, with managers, many of whom are on contract and on salaries much, much higher than the middle managers were getting 10 or 15 years ago. So the whole thing definitely has changed enormously in the last decade.

Senator COONEY—And you start hearing the use of words such as ‘competition’ and ‘market forces’ as if they are separate from the human race somehow or other; some internal sort of mechanism that one cannot interfere with.

Mr Watson—As I say, to me competition should mean that fees should come down. Interest rates certainly are being shaved very close to try and get customers away from one bank to the other. Here again we are talking about big business. Also they have been given concessions on fees and other bits and pieces that go with them. It is quite interesting. I ran off the Internet the other day a swag of fees from the ANZ Bank and the variations that you can come up with. Unfortunately my program will not take the end bits so I have lost a few bits and pieces.

Just looking at credit card accounts, quite apart from business accounts, you have 16 different types of credit card within one bank. How is the customer supposed to sort all that out with different fees and different interest free days; you get 55 on a couple, 44 on a couple, nil on another one, which means you pay interest as soon as you put something on there, and so on and so forth. There are cash advance fees, currency conversion fees and things that were never there when I was working, so I just do not know. Here we are, personal accounts. Access accounts are now subject to $6 a month unless you have $500 in there. You can have eight free withdrawals a month, two staff assisted, and then you get an access fee of $2.50; through the

ATM 65c; through EFTPOS 40c; through the Internet 20c, and once again there are about a dozen different variations on that.

Senator COONEY—Is there any indication there on how they might be worked out? Is there any logic to it at all or are they figures from the air as far as the material that you have goes?

Mr Watson—I really do not know, to be honest. Somebody sits down, comes up with an idea; another bank gets an idea and launches a product, thinking, ‘We’ve got to do something similar to that. Maybe we can better it,’ and it may be better for a little while. I suppose in that sense there is competition. But to me it is far too complicated for the ordinary man in the street. It is far too complicated for the ordinary staff member.

Senator GIBSON—Mr Watson, you seem very concerned about the changes you have seen in the industry that you lived in obviously.

Mr Watson—I am not the only one.

Senator GIBSON—I know that, but isn’t it true with the changes you have seen in the financial services industry that there have been just as many changes in virtually every other industry that you would care to look at over the last 10 or 20 years?

Mr Watson—I do not think you would find such a variation. You go to David Jones to buy a particular product and then you go to Myers to buy the same product. There will be a difference in price, but how many different variations are you going to get on that particular product? Yes, I suppose if you are looking at teacups or something you are going to get different colours but at least you can see what they are. It is not an airy-fairy sort of a thing that somebody is trying to describe to you. It would be like somebody trying to describe over the phone the particular flower pattern on this cup as opposed to this cup. That is about all I think I can say on that one.

CHAIRMAN—Mr Watson, can I ask when you retired from the bank and at what level were you?

Mr Watson—In 1992; middle management.

CHAIRMAN—When you say ‘middle management’, branch manager or what?

Mr Watson—Yes, I was manager of the branch accounting centres, which is what they were called, here in Adelaide. There were two offices that ran what we used to call the ledger areas for all the branches in South Australia. So we were looking after the cheque accounts and the savings accounts for the individual customers in each of the branches. I had a staff of about 60 at the time when I closed it down and turned off the light.

CHAIRMAN—You closed it down?

Mr Watson—It was closed down on me—put it that way. Initially there was a small operation transferred to North Terrace. There was a smaller one then subsequently transferred back again to where it came from. It is still there to a certain extent, though most of the fellows have been pensioned off by now. It is mainly done from Melbourne now. In fact, if you have ever tried to ring up a bank these days you will get a telephone number of somewhere in Woop Woop. If you try to ring your local manager, it is just about impossible.

CHAIRMAN—Is that because the processes have been taken over by technology?

Mr Watson—It undoubtedly is. Technology can, of course, be diversified. The banks have seen fit to centralise as much as possible. South Australia has been a winner in one sense, in that Westpac has a very large processing centre here and the other states have others. There certainly are employment opportunities in a battery hen type of environment which I personally would not fancy very much. But still, as I say, it is no substitute for face-to-face customer contacts and I think the majority of the customers agree with that. Despite what surveys might show, you really have to go out and talk to the people in the street and in the branches.

CHAIRMAN—If there are no further questions, Mr Watson, thank you very much for your appearance before the committee and your answers to our questions.

Mr Watson—Thank you, Senator.

[2.35 p.m.]

HOWELL, Ms Nicola Joanne, Senior Policy Officer, ASIC Office of Consumer Protection

KELL, Mr Peter Richard, Director, ASIC Office of Consumer Protection

CHAIRMAN—I welcome Peter Kell and Nicola Howell. We have your submission before us which we have numbered 20. Do you wish to make an opening statement in relation to your submission? If so, you may proceed and then we will move to questions.

Mr Kell—Thank you, and thank you for the opportunity to present ASIC's views on this issue. As we make clear in our submission, we will be addressing issues associated with the disclosure of fees and ASIC's role in this area. We will not be focusing on the quantum of fees as that is not an issue that is within our jurisdiction. As with all areas of the finance sector, we believe it is important that consumers understand the fees that are applicable to the banking products that they have. We think that they should understand the fees applicable to transaction accounts so that at the pre-contractual stage they can select the best product and service, that during the contract they can organise their banking so as to minimise the fees they pay and that when fees change they are aware of the changes and can make any appropriate alterations to their behaviour, should they wish to do so.

If consumers are to have this information we think it is important that there is disclosure about fees at four specific times: at the time the consumer is making the selection as to which account to get, immediately prior to making a transaction, at the time they receive their statements and when changes are made to fees. We also think that good disclosure practices involve the following principles: disclosures should be relevant to the consumers' needs and complete, that it should be as personalised as possible, that it should be clear and comprehensible to the intended audience, that it should be desirably attention catching and, if possible, that it should be subject to consumer testing.

We have used two different vehicles recently to look at whether current disclosure practices in the banking area are effective. Firstly, we commissioned the research firm Chant Link to undertake research into consumers' understanding of the fees that operate under their transaction accounts. That research showed that consumers generally have a low level of knowledge about the fees that are applicable to them. That research also suggested the need and the desire for changes in disclosure practices. We also compared the regulatory regime for fee disclosure and current industry practices with the principles for timely and good disclosure that I have just discussed and, while we found that the regulatory regime for disclosure was reasonable at the pre-contractual stage and when changes are made—although there is always room for improvement—when you looked at disclosure on statements and at the time of transactions there was more substantial room for improvement.

In considering how disclosure could be improved, ASIC has formed the view that perhaps the most important area to look at is disclosure on statements. Sure, this is after the event, as someone appearing this morning noted, but banking relationships do tend to exist over time and good disclosure on statements has the unique advantage that it gives consumers an overview of the total impact of their behaviour. The importance of good disclosure on statements was a clear conclusion of the Chant Link research which made the point that if consumers are going to read anything, it tends to be their statements, and if they knew there was something there that was going to provide them with a snapshot of how much their own banking behaviour costs, that would be very useful.

We believe that it should be possible to achieve reforms in statement disclosure in the shorter term. Other short-term reforms that we believe are worth exploring include the disclosure of fees and charges for telephone and Internet banking. On the issue of surcharges, if it does become more prevalent in Australia, we think disclosure in that area would also be essential. Once we move beyond an overview of people’s banking transactions and the amount they cost on the statement, we also think that disclosure at the time of transaction would be very useful for most consumers, particularly given that the structure of most fee charging regimes that we are aware of involve applying a certain number of free transactions per month and it is not always easy to keep track of where you are.

The information that has been provided to us to date is that there are costs, technical and other impediments to the introduction of transaction specific disclosure at the time of the transaction in the short term and that view tends to be confirmed by the recent report from the US General Accounting Office, which I think you now have a copy of. That said, real-time disclosure should be possible in the not too far distant future, and we believe that this is something that should be aimed for and taken into account as new delivery systems are created and fee charging regimes designed.

As the committee is aware, ASIC is chairing a working group on transaction fee disclosure and it includes industry, consumer, government and other representatives. Its agreed objective is to provide consumers with the opportunity to better understand the transaction fee structures applying to their accounts so that they can make informed choices. The working group met for the second time a few weeks ago on 3 August; we have another meeting coming up in September. At that August meeting we focused on the issue of fee disclosure on statements and, while ASIC had proposed that the group look towards amendments to the payment system codes to cover reforms in this area, the group chose to explore an alternative path which was, namely, a signed statement of principles.

At the meeting the group prepared a draft statement of principle on fee disclosure on transaction account statements. I think that now has also been provided to you. We are happy to provide it if you do not have copies as yet. In part it states:

Institutions agree with the principle that fee summary information should, where relevant, be provided on transaction account statements to enable customers to make informed choices about how they conduct their transactions. This information should enable customers to clearly understand the fees, by distribution channels, that apply to their accounts during the charging period and other relevant information. In meeting this principle institutions are encouraged to respond with measures which are relevant to the needs of their customers.

The statement would then go on to include examples which may be relevant, including what is called the modified NAB example of statement disclosure. The draft statement from the working group also includes this note:

ASIC will undertake a review of the level of this principle two years after the principle is formally agreed to.

The next meeting will be 6 September. I would like to finally, by way of opening comments, clarify one aspect of our submission and that is simply to note that when talking about Internet banking in the submission we commented that quite a few credit unions did not include clear links to fees and charges information on their sites. We have subsequently received information that six of the seven credit unions which did not include such links on their Internet sites do not charge fees for Internet banking and consequently there was no need for such a link. I wanted to clarify that comment that we made in the paper. I will finish my opening remarks there.

CHAIRMAN—Thanks very much, Mr Kell. Do you have anything to add, Ms Howell?

Ms Howell—No.

CHAIRMAN—You indicate your support for greater transparency, greater disclosure, and that is being worked through the working group. In regard to the time frame for real-time or up-front disclosure of fees in electronic banking, I recall that in your submission you indicated a time frame of three to five years where you believe this would be feasible. As I recall, I think the Bankers Association push it out to the five-year end in their view rather than the three-year end.

Mr Kell—Yes.

CHAIRMAN—What factors would need to come into play to implement real-time disclosure in a shorter time frame than three years?

Mr Kell—I would preface my remarks by saying that ASIC has said in its submission that the information we have received to date indicates it might be three or five years out, but we have not had the opportunity to examine this issue in a lot of depth. It could be sooner. We are interested to hear from participants in the banking industry and other people who may have an expertise in the technical issues here, as to what a realistic time frame might be. I would preface any comments on this issue by putting it in that context.

In terms of bringing it in sooner, I suppose if it is very clear that there is a strong demand for this type of disclosure, then you would imagine that participants in the banking industry would have to respond to that type of demand. Obviously technological developments are things that are not purely subject to changes this week versus next week, but if there was a clear demand for that sort of information then we note that banks over time will respond to it on the technological front. You would imagine that technology providers would be seeing some opportunities there to step in as well, if they saw that there was demand.

Senator CONROY—The impression I had from your focus group testing, which you referred to in your submission, was that not only was there clear demand but I think you made the comment that the conversations became more heated. How much more demand do you think there needs to be?

Mr Kell—To be perfectly honest, this is still a relatively new issue we are grappling with here. That research was fairly recent. We found the results indicating the interest in this sort of information—

Senator CONROY—There was a huge consumer backlash in the United Kingdom recently at the proposal to introduce fees on ATM transactions.

Mr Kell—I must admit that I am not aware of that.

Senator CONROY—The banks recently announced in England that they were backing down from their proposals to actually do it because of a consumer backlash. Legislation has been passed in California to outlaw it, even though I understand other things have then flowed from that. There seems to be a fair bit of consumer demand.

Mr Kell—Certainly some of the information we have had from the United States indicates that people are very interested to find out the cost of the transaction at the time the transaction is taking place. You would think this is not unique to the banking area; it is something which applies in many different areas of the economy. It is probably fair to say that there has not been a vehicle for articulating that sort of demand or presenting those sorts of views previously to the regulator and probably to some extent to the industry. Now that there are these sorts of discussions, the discussions that are taking place under our working group arrangements, that might highlight the strength of the demand for that sort of information and the fact that people want it as soon as the technology and the systems can allow it.

Senator CONROY—Would it be fair to say most banks, because of Y2K, have substantially upgraded their computer equipment and computer programming?

Mr Kell—My understanding is that they have, but I am not sure I could draw any link between the particular type of upgrading that happened there with the sort of upgrading that would allow disclosure of transaction specific information at the time of transaction.

Senator CONROY—I am assuming, given the arguments that have been put to us so far today, that it would have to be a fairly substantial technological shift. I am not completely across how it works, but you seem to be able to access your balance on a transaction by transaction basis. The argument is that it would slow the whole system down. Slowing down is about microchips and super microchips and super super microchips. I am concerned that the argument is that it is a technological issue and it requires some substantive upgrade of equipment, which would probably be at least now seven years away, I would have thought, given the massive investment everyone has gone through in the community, including banks. I am hoping that your answer is, ‘No, no, no, it’s not just an equipment upgrade.’ Presumably then it is a software upgrade.

Mr Kell—Again, the exact nature of some of the technological upgrades required is not something that ASIC has looked at in any detail at this point in time. I think the American paper is suggestive about the scale of some of the exercises that need to be undertaken before such disclosure can be universally introduced and I suppose that is one of the issues. We would like to see this type of disclosure available across banking systems, not just necessarily in one or two more advanced ATMs that might be introduced sooner. We would like to see it available more generally to customers across bank systems as soon as it is feasible to do so.

Senator CONROY—Do you think if banks were losing money because of consumer behaviour they would wait five years before they made a change?

Mr Kell—I think that better disclosure in some of these areas would not necessarily have an impact on losses or gains one way or another. That is not something we have considered in this context. We have been focusing more on what are the regulatory options when it comes to going down this route. We think it can be done, that there are not any major obstacles in terms of going down this road on the regulatory side and we are pleased to see that generally the banks and consumer representatives are also happy to explore going down this road. Technology seems to be the key impediment at this point in time.

Ms Howell—The US report has a fair bit of detail on the kinds of software and hardware changes that would be needed, at least in the US market. We have not looked at the extent to which that applies in Australia at all.

Senator CONROY—I come back to my question: if it is a substantive hardware improvement that is necessary—and given everybody has just gone through that process with Y2K—that is five years we are looking at. Depreciation is over five to seven years usually, so they are not going to want to jump in and replace all their hardware again so quickly, I would not have thought.

Mr Kell—Senator, again, the sorts of mechanics of introducing the new technology is not something we are primarily focusing on. We are looking rather at how it would be best done, how the regulatory environment can facilitate it so that when the technology is in place, or is available, it can be introduced with as minimum a level of fuss as possible.

Senator CONROY—In your paper you talk about the need for effective disclosure and you set a number of tests and then you have done some market testing. You describe it as 'less than optimal' and say that there is room for improvement. Then you start talking about the longer term to deliver them. Do you get soft on the banks there?

Mr Kell—What we have tried to do is set out what we think are disclosure reforms that are more achievable in the shorter term versus those that may be more achievable in the medium to longer term. If you look at what we have said we think can be achievable in the shorter term, then there is actually a wide range of reforms we are looking at which we are discussing under the framework of the working group, including improving fee disclosure on statements; more consistent disclosure of the applicable monthly period—which I think was an issue raised by a speaker this morning—more consistent disclosure of what exactly constitutes a transaction; what is an electronic transaction or a non-electronic transaction; ensuring that there is good disclosure on Internet sites and whether that should become something which is required under the payment systems codes: banking code, better disclosure of telephone banking; whether generic disclosure at ATMs is something that could be considered—for example, having a warning on signage at ATMs saying, 'If the ATM you're using is not one of your own institution's machines, you may incur a fee;' and, if it comes up, surcharge disclosure. That is a bundle of potential reforms which we see as things that can be dealt with in the shorter term. The one we have said is probably not a short-term proposition is the issue of real-time transaction disclosure and that is because of our understanding at the moment of what the technological impediments are.

Mr SERCOMBE—I wonder if you have had your attention drawn to a story in the Melbourne *Herald Sun* last weekend about a company called Australian Teller Machines which offers investors a chance to buy their own ATM in a privately operated ATM network. The promoter of the company is saying that the returns are good and could be quite lucrative, depending on the location and the number. The company blurb talks about a thousand a month for investors and owners based on 1,500 transactions and so on; a fee of about $2 a transaction has been nominated, but may vary depending on the location. I am wondering whether the working party that ASIC is heading up, or ASIC in any other form, has been looking at this non-bank privately provided ATM network.

Senator CONROY—I would check out that prospectus as well.

Mr Kell—I took note of the promises.

Mr SERCOMBE—Do you have any comments on where that sort of development sits in relation to your contemplation on this issue more broadly?

Ms Howell—It is not something that has come up and that we have spent a lot of time in the working group looking at because it is not as widespread as the issue of foreign bank ATMs.

Mr SERCOMBE—Yes, sure.

Senator CONROY—It is quite common in America, though.

Ms Howell—Yes.

Senator CONROY—A lot of petrol stations now have an independent—when I go into my local Shell, they have a sort of stand-alone that does not seem to belong to anybody.

Mr SERCOMBE—The article states:

The target of 2,000 sales in the first 12 months have been eclipsed. Sales are concurrent from around Australia and from organisations as diverse as shopping centre operators and community clubs.

Even a couple of brothels in Melbourne are believed to be customers, so they obviously have a broad customer base.

Ms Howell—It is a question of surcharges again by independent ATM operators. As I think we have said in our submission, we would be very keen to have surcharges disclosed because the difference between foreign ATM fees and surcharges is that when I use a foreign ATM I know I will be charged a fee and my bank will tell me how much that fee will be. When I use an independent ATM which directly charges me a fee, I do not know how much it is going to be, so it is certainly an issue.

Mr SERCOMBE—But if they are saying there have already been 2,000 sales within the last 12 months, it is a significant issue now, isn't it?

Senator CONROY—They are into petrol station chains. I have been into three or four different Shells—and 711s as well—in Melbourne and I am coming across them now quite regularly in chains.

CHAIRMAN—Do you know what the fee structure is for these? Is there a set fee or is it up to the owner of the machine to set the surcharge fee at whatever level they choose?

Ms Howell—As far as we are aware, there is no regulation that says what fee they can charge. It would be up to the ATM owner.

Mr Kell—Obviously this is an area we are going to have to look at. We have not received many complaints or much commentary at this point in time about the extent of so-called surcharges through independently operated ATMs. There has been over the years some very limited anecdotal evidence that surcharging has taken place in remote location EFTPOS and ATMs. We are not aware of it as being a more widespread practice at this point in time, but it is something that we do want to track because our basic starting point is that if a surcharge is there then it should be disclosed very clearly and up-front; no moving away from that starting point.

CHAIRMAN—In relation to the market research you did in the focus groups, if customers are provided with better information with regard to fees on transactions, whether that be in their statements and, when it becomes feasible, real-time disclosure in relation to electronic transactions, was there indication from the market research that customers would use that information, firstly, to better manage their accounts, to keep their fees at a minimum and, secondly, to shop around between banks to get an account structure that gives them the lowest fee possible for their bank usage and in that way maybe the corollary would be downward pressure on bank fees through competitive pressure?

Mr Kell—If I could just answer the last question first, ASIC is very strongly of the view that transparency and disclosure in whatever financial services market you are talking about is good for consumers and will no doubt facilitate the efficiency of the market. In terms of the first point—will it change people’s banking behaviour?—I will let Nicola talk a bit about that. I would make one comment, that is, it was interesting to see that group of people within that research project who started off with the very clear view that they were uninterested in fees more generally. They certainly became more interested in the way that the fees were charged and how that might impact upon their behaviour and banking costs during the discussion. That would tend to suggest that, yes, that is the sort of thing that would happen. In some ways I think at least some of the banks are keen to see that because they are keen to send pricing signals that will move people away from more expensive delivery systems to less expensive delivery systems.

Ms Howell—In terms of the actual focus groups, there were four different groups. Two were younger age and two were older age, and then they were divided again by income. Certainly both the younger and older lower income group would say quite positively that better information about fees would help them manage their finances and may influence them to change their behaviour if it addressed particular needs. The younger higher income group suggested that they perhaps would be less inclined to change their practices but that they saw the value of improved disclosure for the community as a whole and also, because of their financial situation, the different levels of fees that they paid did not impact so much on their own circumstances, whereas for the lower income groups, whether they paid $5 a month or $10 a month did actually make a significant difference to them.

Senator CONROY—Your report says the most important piece of information of the consumers is page 21. They obviously nominated the real-time issues and said, ‘These are the things we think are most important, that would help us the most.’ These were the numbers of transactions they were up to for the month and/or the number of free transactions left for the month and the cost of the transaction just made or about to be made. They have nominated at the top of their scale the real-time issue, in terms of how you presented it here.

Mr Kell—The information provided on statements and the real-time issue were the two that came pretty much up the top and in some ways they are complementary. One gives you an overview of the impact of your banking practices and the other helps you understand, ‘How much is the transaction I am about to undertake going to cost?’ We are keen to see disclosure move ahead in both of those areas, that is right. It just might have a different time frame in terms of how quickly that happens.

Senator COONEY—On what basis is ASIC chairing this meeting, this group? I will just tell you what I am a bit concerned about. As a regulator, what are you doing, as it were, in a situation where you are going to perhaps be giving blessings to what the banks or the consumers might do?

Mr Kell—To go back a little bit to explain the history of this particular working party, when the ASC became ASIC, one of the responsibilities it gained was an oversight responsibility for the various payment systems codes, banking, credit union, building society, and the EFT code, the electronic funds transfer code of conduct. Not long after becoming ASIC, we were asked by the Treasurer to chair a process to review the EFT code and how widely it should apply and what sorts of activities it should cover, and that process has been going on for some time now. As part of that process, the issue of looking at fees and fee disclosure proved to be a rather difficult sticking point and so, to ensure that the EFT review could move ahead and that we would get a useful outcome there, we said that we would deal with the fee disclosure issue in a different forum. The different forum is this working group. We have taken out one of the core issues from the EFT process and said, ‘We’re going to look at whether better disclosure is needed here and, if so, how it might be introduced, what sort of time frames might be there, and to involve the banks and the consumers in coming up with a solution.’

Senator COONEY—You are not committing ASIC to any particular regime, though, are you? You are not saying, ‘Look, if you do this, ASIC will bless your action’?

Mr Kell—I think at the end of the process we would like to have an outcome that had sign-up from the different parties. Obviously with any sort of process that involves banks and consumers and a government regulator it is going to involve elements of working together and looking at what the other side is saying, so we would like to have a process where we can say, ‘This is the best that can be achieved.’

Senator COONEY—You only have the banks there. You do not have the consumers there, from what—

Mr Kell—Yes, we have the consumers as part of this working group.

Senator COONEY—You have the people who—

Mr Kell—We have Chris Connolly, who appeared before you this morning.

Senator COONEY—I thought he represented consumers. He purports to represent consumers.

Mr Kell—Yes. We have consumer representatives on the working group.

Senator COONEY—They are not consumers, though, are they? You have the banks but it does not seem to me you have the consumers.

CHAIR—Every one of us is a consumer.

Mr Kell—We have the representatives of the Australian Consumers' Association.

Senator COONEY—I will tell you the point I am getting at. All this is based on contract, isn't it? My banking with my bank is a private contract, isn't it? If I go and put a deposit in the bank, they have contractual obligations to me, haven't they?

Mr Kell—Yes, but I am just interested as to where this is leading.

Senator COONEY—How does privity of contract come in if you have consumer groups rather than the consumer himself or herself?

Mr Kell—We have to have some mechanism for obtaining the views of consumers as part of this process. We obviously cannot bring in all consumers to the table so we have undertaken research, as we have said, to consumer test or undertake some consumer testing as to what ordinary consumers think they would like by way of disclosure, so we have used that particular process. But also as part of the working group we have invited onto the group representatives from well-recognised consumer organisations that as part of their role regularly test the views of consumers and are in contact with consumers.

Senator COONEY—That is a role that they have taken up. That is not a role imposed upon them by government. How do you know they are giving you the true situation and how is that going to affect the person's contract? In fact, do you have an idea of what the contract is? Do you have a typical contract that you have been considering between the banker and the consumer? If so, could you let us look at it now.

Ms Howell—I do not think we have any contract with us.

Mr Kell—We do not have a contract in front of us.

Ms Howell—The normal contract between the bank and the customer is their terms and conditions.

Senator COONEY—Who writes that contract?

Ms Howell—The bank.

Senator COONEY—What does the consumer say about that contract?

Mr Kell—That is why we have undertaken the consumer testing, I suppose, to see what the consumers say.

Senator COONEY—Did you show the consumer the contract?

Mr Kell—We have explained to them what the disclosure obligations are under that contract because that is the part of the contract that we have the most immediate interest in as part of this process.

Senator COONEY—Do you have the disclosure? Do you have a copy of what the disclosure provisions of the contract are now?

Mr Kell—Not right in front of me, Senator, no.

Senator COONEY—Have you been considering it?

Ms Howell—The disclosure requirements are imposed by the code of banking practice so the banks have to at least meet that standard in their terms and conditions.

Senator COONEY—Yes, but who writes the code of practice?

Mr Kell—The code of practice is currently under review.

Senator COONEY—No. Who writes it?

Mr Kell—It is the product of an exercise involving input from banks, consumer and community groups and government regulators.

Senator COONEY—And you say that they have all got together and written it? It is not the banks that write that?

Mr Kell—At the end of the day it is the banking industry code of practice but it has been developed after an extensive consultation period and it is occasionally reviewed. A review is under way at the moment, chaired by a gentleman called Dick Viney.

Senator COONEY—Does that have any legal, binding force?

Ms Howell—The banking code? There is no obligation on a bank to become a member of the banking code, so it is not a mandatory code, but there is a term in the banking code that if a bank signs up to it, then it will comply with the provisions in the banking code and those provisions are in that way incorporated into the contract between the bank and each of its customers.

Senator COONEY—And is the customer told that? From your inquiries is the customer told about that when he or she signs the contract with the bank to look after his or her funds?

Ms Howell—Sorry? Is the customer told that there is a banking code?

Senator COONEY—Yes. Does the bank go through that with the customer, do you know?

Mr Kell—I do not think, generally, that banks do run through the banking code when a customer signs up.

Senator COONEY—What I am trying to get from you is whether or not you are satisfied that the full terms of the contract are understood by the customer when he or she goes in to sign up with the bank.

Mr Kell—As I have said, Senator, we are trying to focus on at this stage whether consumers understand the disclosure about the costs of their banking. We are not looking at every single term and condition at this point in time as part of this process. Our findings as part of the research we have done to date is that in some areas consumers do not understand the disclosure of fees and charges and that is why we are trying to seek some reforms in this area.

Senator COONEY—I thought that was so. I was wondering why you raised the issue of the code of conduct. I was asking about what disclosure you went into and you raised this, so I thought there must be something about disclosure of fees in that—

CHAIRMAN—Senator Cooney, perhaps I can help out. The reason this inquiry was initiated was that under the review of the code of conduct it was proposed that there be real-time disclosure of fees on electronic banking and, because of the difficulties enumerated by the banks in relation to complying with that, it was put aside from the code of conduct and, as is being discussed here, is being considered separately by the working group and by this committee.

Senator COONEY—All I am trying to get, Mr Chair, is some idea of whether, when the banking customer in Burcher, Berriwillock or Culgoa goes into the bank, all this is told to them.

Senator GIBSON—The branches have been closed there, Bernard.

Senator COONEY—Yes, I know, but in my day they were open and flourishing well.

Senator CONROY—He is probably thinking of something along the lines of a key feature statement, something like that which really sets it out bluntly.

Senator COONEY—Yes, that sort of thing. You have been looking at this for a while now. Can you give us some idea of how that contract made between the customer and the bank is carried out in terms of the disclosure provisions in that contract? At least, that is what you have told us.

Mr Kell—It is a requirement, obviously, that a customer be given a copy of terms and conditions.

Senator COONEY—I know it is a requirement, but how does a bank carry it out? That is what I am trying to get from you.

Mr Kell—I can only reiterate that we have been looking at exactly that question in relation to fees and charges.

Senator COONEY—But what sorts of answers have you found? Can you tell us that?

Senator CONROY—It is poor knowledge. Your report says that people did not know, so clearly there is a failing.

Mr Kell—That is what we found. It is not necessarily all at the one level across the board but there is not particularly good knowledge about how fees and charges are disclosed. Some of the fees and charges are disclosed prior to people entering the contract and that is carried out relatively more effectively. Fees and charges at the point of transaction are on bank statements and that is why we have focused on those two areas particularly as potential areas for reform. The working group is looking at the nature of the problem there, how it can be addressed and in what time frame it should be addressed and how banks should best participate in carrying these improvements forward as well.

Senator COONEY—But shouldn't ASIC be asking itself, 'Is the contract being carried out?'

Mr Kell—I do not think we have come across widespread instances of non-disclosure, if that is what you are asking; whether people have not been getting terms and conditions.

Senator COONEY—Is ASIC happy with the way disclosure is being carried out by the banks at the moment?

Mr Kell—No. That is why we are undertaking this process. That is why we have undertaken this research.

Senator COONEY—I thought you just said you have not found any widespread divergence from the—

Mr Kell—What I am trying to do is draw a distinction between areas where disclosure can be improved—and that is the area the working group is looking at—and you seem to be suggesting that there might be areas where there is no disclosure at all.

Senator COONEY—No, I am talking about the satisfactory disclosure. You cannot perform a contract by saying, 'Oh, we haven't disclosed properly but we've disclosed something.' That is hardly performance of a contract, is it?

Mr Kell—What we are looking at is how disclosure can be improved so consumer understanding of fees and charges can be improved. Then they can change accounts or change their behaviour or stay doing exactly the same thing as they see fit.

CHAIRMAN—What you are looking at is putting additional disclosure requirements into the code of conduct over and above what is currently practised as part of that code.

Mr Kell—In some areas that is certainly what we are looking at as a possibility. In others there might be other sorts of vehicles for carrying forward the sorts of reforms we are thinking about. That is very much the subject of discussion under the working group—the best way to take forward some of the broader improvements to disclosure that everyone has agreed would be a good thing to look at.

CHAIRMAN—When you tell Senator Cooney you have not found any examples of noncompliance with disclosure you are talking about disclosure as it is currently practised but you are looking at what additional disclosures might be needed or beneficial to the customer, above and beyond what is currently provided. Is that what you say? There is no disjunction between what you are examining and what happens now in that sense.

Mr Kell—No, that is right.

Senator COONEY—I take it that ASIC is saying, 'As things are presently in operation ASIC is satisfied with the disclosure the banks are making,' although they hope they can improve. Is that what ASIC is saying?

Mr Kell—In one way, yes, in that we are satisfied the types of things being disclosed are things that need to be disclosed: fees on your transaction account, changes to fees over time. Those sorts of things need to be disclosed to consumers. What we are looking at is whether there is scope for improvements to the way those sorts of things are being disclosed. That is the sort of distinction—

Senator COONEY—Just to make this clear, ASIC is happy that the banks are now carrying out their obligations under the contracts satisfactorily, but hope they can improve. The sorts of things we heard from the consumer groups before were there were large-scale complaints. I do not know whether you were here and heard Sharon Barker reading out plenty of examples, but you would have found that is not quite accurate.

Mr Kell—As I said, we have certainly found, as part of the research we conducted, that there was dissatisfaction with certain types of disclosure the banks were undertaking. There was also a lack of understanding on the part of quite a few consumers as to what the fees and charges regime were that their transaction accounts were operating under. That is why we are looking at this issue and that is why we have been working under the structure of the working group to try and improve things. I cannot comment on the earlier comments that a particular consumer representative made in terms of the individual anecdotal evidence she put forward.

Senator COONEY—But ASIC is not giving any blessings. They are not saying that, whatever solution is reached, ASIC approves of it.

Mr Kell—We have a specific power under our legislation that we can approve industry codes if we are satisfied with those codes. It is also envisaged that the power to approve codes will also be there under the financial services reform legislation when it comes through.

Senator COONEY—But only with the banking code operating at the moment.

Mr Kell—The banking code is currently under review and we will be putting in a submission to that review and ASIC may have some areas where we think the code can be improved.

Senator COONEY—Does ASIC actually monitor these codes or just simply approve of them?

Ms Howell—We have a monitoring role for all of the banking, building society, credit union and EFT codes of practice. The way that process works at the moment is that we send out an annual return to each institution each year, which they then fill in and return to us and we compile the results and publish them. That is the process. We inherited that role from the former Australian Payment Systems Council, so we are exercising that monitoring power in the same way they had been doing. However, we are looking at reviewing that process later this year.

Senator COONEY—Does anybody from ASIC actually go out like the tax department does?

Ms Howell—Not at the moment, no.

CHAIRMAN—Perhaps before we wind up I will ask this: you listed and, in your verbal evidence, referred to the four principles that you regard as underpinning effective disclosure. What is your view of the current disclosure practice measured against those principles?

Mr Kell—As we said, in some areas we think it is meeting those sorts of standards but in other areas we think that again there is room for improvement. Certainly I would say that the research we did through Chant Link backs that up. For example, the most obvious one is that if good disclosure is timely then it would be useful to see, down the track, the introduction of real-time fee disclosure. That is an area where we think disclosure could be changed to bring it more into line with the principles.

Senator COONEY—Have you recommended disclosure just before a person overdraws? You do not seem to have mentioned that there.

Senator CONROY—Do you mean when your card spits back out at you, Barney? That is when your card comes back out with no money.

Senator COONEY—That is absolutely right!

Mr Kell—That specific issue is not one we have looked at.

Senator COONEY—I put that up as a question of whether or not you should be looking at other matters as well.

Mr Kell—The principles we are talking about are fairly general. It might be that getting a warning if you are about to overdraw at the time it is about to happen might be a good thing. It might, therefore, correspond to the principle of timeliness as a good disclosure practice. But, as I said, that particular example is not one we have been considering.

Senator COONEY—Who from ASIC is chairing the group?

Mr Kell—Delia Rickard, who is co-director, along with me from the Office of Consumer Protection. Unfortunately Delia was not able to be here today.

CHAIRMAN—Any further questions? If not, Mr Kell and Ms Howell, thank you very much for your appearance before the committee and your answers to our questions. We will take a short adjournment for five minutes for afternoon tea before our next witness.

Proceedings suspended from 3.26 p.m. to 3.35 p.m..

CARTWRIGHT, Mr Ian Edward, General Manager of Finance Operational Services, Telstra

HARDCASTLE, Mr Paul Kevin, Technical Adviser, Commerce and Payment Emerging Business, Telstra

CHAIRMAN—I welcome Mr Ian Cartwright and Mr Paul Hardcastle. We do not have a written submission from you so we are looking forward to hearing what you have to tell us by way of verbal evidence. At the conclusion of that we will probably have some questions.

Mr Cartwright—Yes. We are happy to be here today and to provide what input we can to the inquiry. As an opening I would like to make two short comments and then we are certainly happy to take any questions that you have in regard to our company and certainly in regard to banking fees. The first comment is that Telstra is one of the largest receivers of bill receipts in Australia and we have noticed trends towards a much higher use of credit cards and other payment mechanisms. This trend is not so apparent overseas, where there is more of a take-up of direct debit type transactions. It is likely that the promotional schemes, such as loyalty schemes associated with credit cards, are driving the usage of credit cards because the fee structure is attractive to banks compared to processing through EFTPOS or debit type systems that are currently available.

The second point I would like to make is that the method of payment using a credit card has significant cost implications for Telstra. What we see is that a credit card transaction is based on a percentage of the transaction value and is not a flat per transaction rate that is currently applied to a debit transaction. This certainly impacts on our company’s bottom line. They are probably the two key messages we would like to get across to you. That is a very short summation of the issues we have and we are happy to answer any questions you may have.

CHAIRMAN—It is the issue of the cost to you of credit card transactions.

Mr Cartwright—Yes.

CHAIRMAN—Through your customers paying their accounts on credit cards.

Mr Cartwright—Yes.

CHAIRMAN—The other issue was?

Mr Cartwright—The fact that there is a difference between—

CHAIRMAN—The cost of that and direct debit.

Mr Cartwright—It is a percentage of the transaction.

CHAIRMAN—A percentage rather than that fee.

Mr Cartwright—As opposed to a flat fee.

CHAIRMAN—Both issues relate to the credit card aspect.

Mr Cartwright—Yes, they do.

Senator CONROY—The figures recently have shown an explosion in credit card debt. You are pointing to that as actually creating a secondary problem for you on your balance sheet.

Mr Cartwright—We have moved from, in the financial year 1995-96 where we had around 5.9 million payments out of a base of 65 million, to 16.5 million in the last financial year off an 82 million base.

Mr SERCOMBE—How much of that do you put down to loyalty schemes and the like rather than other possible causes?

Mr Cartwright—People use credit cards for a number of reasons, but a main driver is the loyalty schemes. Smart people use the —

Mr SERCOMBE—Does consumer research show that to you, or is it just instinctive?

Mr Cartwright—We have not researched that area. It is instinctive.

Senator CONROY—There is a lot of criticism of the loyalty schemes—that is, that they are, in fact, making people much worse off because they stop people shopping around and finding the best value. Is that a fair criticism? It is really a marketing tool to trap people into using the credit card?

Mr Cartwright—I am going to struggle to comment on that one. From a personal point of view, I would have a view, but from a company point of view certainly I do not have the data to support an answer to that question.

Mr SERCOMBE—You are saying about 25 per cent of your accounts are now settled by credit card.

Mr Cartwright—Yes, just under—about 20 per cent.

Mr SERCOMBE—How is the rest of the settlement divided up—mainly Bpay?

Mr Cartwright—We do about 4.3 million payments through Bpay. That started back in 1995-96 when it was 110,000, so that is certainly going this way as well. Australia Post is probably still one of the biggest areas. That is an over-the-counter transaction. In the last financial year there were 45.6 million payments.

Mr SERCOMBE—Cheques?

Mr Cartwright—That is cheques and cash and money orders, if Australia Post have issued those money orders.

Senator CONROY—The banks are fairly keen to train everybody onto Bpay in terms of Internet banking and those sorts of things. Will that make your problem simpler? Will that reduce your cost if it is Bpay rather than credit card?

Mr Cartwright—Yes, it would. Bpay is a flat transaction fee so, yes, it would; given as a break-even point, on the average value. We have that break-even point. But across the board, yes, it would reduce our fees.

Senator CONROY—The ACCC are looking at a number of issues around this sort of area. Have you put in a submission to the ACCC?

Mr Cartwright—Yes, we have. We have attended two meetings with the ACCC.

Mr SERCOMBE—Would you be able to provide us with copies of those submissions?

Mr Cartwright—I was under the impression we had, but maybe not to you. I certainly could get you those submissions, yes. I will take that on notice and I will provide those to you. I thought we had, though.

Senator CONROY—You have identified a problem. What would you like to see happen? What would you like to see this committee recommend?

Mr Cartwright—I would like to see a transaction fee, not based on dollar value, that is fair and reasonable.

CHAIRMAN—You say at the moment it is a percentage arrangement.

Mr Cartwright—Yes.

CHAIRMAN—Firstly, is that percentage negotiable, depending on the volume of throughput for someone like you compared with another retailer or marketer or whatever? Therefore, is it a variable—a fee that can be varied—depending on who the client of the bank is?

Mr Hardcastle—The fee structure as it stands today can be negotiated down to a ceiling. The reason for the ceiling is because of the interchange fee structure in the banking environment. We are a reasonably large merchant, we have consumers paying their bills with credit cards so we get a large volume of credit cards. We can go to our acquiring bank and negotiate a fair and reasonable rate down to a certain level, because that bank will lose money depending on the volumes of cards and which particular issuing bank receives the transaction eventually. The issuer then charges the acquirer a percentage as well, so there is a ceiling that the acquirer will go down to.

CHAIRMAN—When you say the issuer, that is like Visa or—

Mr Hardcastle—No. In the credit card banking community the card you carry in your wallet—for instance, you may carry an ANZ card—that is the issuer of your card. You are carrying that card. When you use that card at a merchant—say, Telstra or in a retail shop—the transaction takes place with an acquiring bank. It depends on the merchant's relationship.

CHAIRMAN—The merchant's bank, okay.

Mr Hardcastle—Correct. The transaction in real time means the consumer is present when the transaction takes place. It may be through an EFTPOS terminal so there is a card present and the signature is present. The usual authentication checks take place. The transaction is sent from the EFTPOS terminal to the acquiring bank. The acquiring bank checks to see if it is its own card on the last transaction, or routes it depending on who actually owns the card, who the issuer is. Then the issuer will respond as to whether that credit risk is not fraudulent or a potential risk, back in real time to the device.

CHAIRMAN—In relation to that transaction is there a fee charged by the acquirer bank and by the issuer bank?

Mr Hardcastle—Correct.

CHAIRMAN—So there are two fees?

Mr Hardcastle—Correct.

CHAIRMAN—You say you can negotiate down the acquirer's—

Senator CONROY—And GST now.

Mr Hardcastle—Absolutely, yes. We have GST.

CHAIRMAN—You can negotiate down the acquirer's fee but not the issuer's fee. Is that right?

Mr Hardcastle—The fee we negotiate as our relationship with the acquirer is one fee. He then has a fee to pay the issuer. Based on the structure of the Australian interchange environment there are some fixed rates and percentage rates there. Our acquirer may potentially lose business—I use the term lightly—to gain our business, but he may end up paying more to the issuer. It really depends on card usage.

CHAIRMAN—Have you had any discussions with banks regarding your proposal to move to a flat rate per transaction fee? If so, what has been the reaction?

Mr Hardcastle—We are a large merchant, so we have a relationship with our acquiring bank. We use one of the banks. That discussion has gone on for years, I would imagine.

Senator CONROY—Do you have a long-term arrangement?

Mr Cartwright—Yes, we do. We have banking arrangements and, from time to time, we go out for a review of our banking arrangements. We go out to tender. Currently Westpac is our banker.

Senator CONROY—Do they all mysteriously have the same rate? There is no competition?

Mr Cartwright—We are charged a range of rates, depending on the card. We go from a bottom up to a top end rate that we get.

Mr SERCOMBE—Can you tell us what that range is?

Senator CONROY—It might be commercially sensitive.

Mr Hardcastle—We can give you the general rates in the industry which are freely available or in the press in the Saturday *Financial Review*. An acquirer-merchant relationship may be in the region of 1.6 to two per cent for a credit card. That varies on charge cards, being Diners and Amex. There are two interchange fees between the acquirer and the issuer. One fee applies if it is an electronic transaction, EFTPOS type transaction, where the card is present and that is 0.8 per cent. If it is not an electronic card transaction—for instance, an online transaction or a telephone call voice response type transaction—it is 1.2 per cent.

Mr SERCOMBE—For a company the size of Telstra, you would be a pretty lucrative customer to deal with, wouldn't you?

Mr Hardcastle—You would think so, wouldn’t you, particularly the numbers?

Mr SERCOMBE—Yes. Then going back to Senator Conroy’s query about the competitive environment you find when you submit your business for tender—

Mr Cartwright—It is a part of the tender discussions, but it is an overall tender that we look at, because we have a lot of financial services provided by the bank, so it is one part of that, but certainly it is a part that we focus on.

Senator CONROY—I guess if they have all used the same actuary risk assessor they are all going to have basically the same rough price.

Mr Cartwright—Yes, they do. They do come back around the same price. Our ranges are somewhere above one per cent to somewhere just below two per cent.

Mr Hardcastle—When you say ‘all’, you mean the four majors under the four-pillars policy?

Senator CONROY—Yes. Presumably the industry sits down and works out that the risk of default for card being present is X, the risk of default for—

Mr Hardcastle—In the credit card industry, which is managed by the associations which are owned by the banks—Visa and MasterCard—there are the interchange rules and those rules are, I would think, in the region of 30 years old—based on the technical history of the magnetic stripe credit card.

Mr Cartwright—Can I give an example for risk, if you are talking about risk. For Telstra we take on average 1.3 to 1.5 million credit card payments each month and we get charge back on about somewhere between 100 to 200 of those, for whatever reason. A lot of the time it is because someone else has paid the bill or whatever. It is not an error; it is maybe a duplicate payment which has been made. So the risk, when there is a problem, comes straight back to us.

Mr Hardcastle—Because the card is not present.

Mr Cartwright—There is no risk. We take that straight back. It is charged back straight to us.

Mr Hardcastle—The reason being that most of our consumers pay their bills with credit cards using a voice response system. So you phone up a telephone number, like Bpay, and you give your credit information down the phone. Through these interchange rules, of course, the card is not present. There is no Telstra staff member monitoring the card details on the embossing nor the signature on the back, so historically that is a higher risk. The percentage is higher. As I indicated the interchange percentage is higher and, potentially for a small retailer—the florist who is taking an order over the phone—the percentage of merchant service fee would be higher, based on that risk. But then, who wears the risk when it comes back? That includes fraud. Historically it was fraud; nowadays it is more charge-back, which means that when the card member is billed they argue or they have a discrepancy on their bill about a certain transaction and report that back and it is frozen. Ultimately it is up to the merchant to sort it out when a card is not present.

Mr Cartwright—We do not have a lot of fraud on people paying phone bills with stolen cards. That is quite obvious.

Senator CONROY—Why would you pay someone else’s bill if you have stolen their card?

Mr Hardcastle—You would be surprised.

Senator CONROY—Is it possible for people who are just observing that you have entered into a commercial transaction and you have done badly out of it? You have not been a good enough negotiator?

Mr Hardcastle—As Telstra themselves?

Senator CONROY—Yes, Telstra. Telstra has not done a good enough job of negotiating a cheaper rate for yourselves. Is that a fair criticism, if people wanted to criticise?

Mr Cartwright—It is extremely difficult to get down under the 1.2 per cent interchange fee.

Mr Hardcastle—Because of that structure of the fees? Any bank, or even the four majors, will have a problem giving a better rate.

Senator COONEY—So there is an anticompetitive feature there, you are saying, in terms of the way the interchange fees are arrived at?

Senator CONROY—That is what Allan Fels is looking at.

Mr Hardcastle—Exactly.

Senator CONROY—You are barracking away for Allan.

Mr Hardcastle—We are hoping.

Senator COONEY—Is there a set contract that the bank has with you? Do you negotiate an agreement with the banks from go to whoa, as with the customers? If you were here you would hear that there is a standard type of contract if you are a customer of the bank in sense of being an everyday customer and you have to accept those conditions. But can Telstra work out its own deal?

Mr Cartwright—We negotiate on our banking arrangements with the bank, with credit card or card issuers like Diners or Amex. They are separately managed. We do that individually. Part of the negotiation is the price—absolutely.

Senator COONEY—And the conditions are all negotiated?

Mr Cartwright—Yes, they are and they are a part of the contract.

Senator COONEY—Do you do that through your solicitors?

Mr Cartwright—It is a sourcing process with legal representation, with people like me from operational, yes.

Mr Hardcastle—From a merchant's perspective, because of our volumes we have a merchant service agreement that we can negotiate. As you have intimated we have a fair amount of volume there. But all merchants, whether they be a florist, a high street merchant or a craftsperson that takes credit cards as a transaction as part of his business day, have a merchant service agreement with the acquiring bank.

Senator CONROY—You would have to be the biggest customer in the country, though, wouldn't you?

Mr Hardcastle—The largest biller.

Senator COONEY—Take the florist; I imagine there would be a standard sort of contract the bank would offer the florist. But, as I understand what Mr Cartwright was saying, Telstra would negotiate its own conditions.

Mr Hardcastle—As does Coles Myer, as does Woolies.

Senator COONEY—All the big ones would negotiate.

Mr Hardcastle—Absolutely, yes.

Senator COONEY—Whereas—I do not know whether you know—presumably with the small business person they would have to take a standard terms contract.

Mr Hardcastle—The process of signing the merchant service agreement with an industry-specific retailer would undergo a number of criteria, being the risk, being credit and debit, PIN based debit, et cetera. Is it electronic? Is it manual? Is it card present, card not present, et cetera? That will be assessed as part of the agreement.

Senator COONEY—Is there any basis—this is how we started off, I suppose—for Telstra to have any complaints since it has the bargaining power to get the conditions it wants from the bank? Should this committee have any concern about Telstra?

Mr Cartwright—I do not think we are here to complain. We are probably here just to say, ‘These are the facts. This is the reality. We would welcome an inquiry into it and we know that inquiry is taking place.’

Senator GIBSON—Have you tried pushing this line of a fixed fee transaction fee with any of the card suppliers?

Mr Cartwright—What we have said—and it is during discussion and I do not have an answer in writing, so this is a discussion that has taken place—is that it all hinges around the interchange fee. There are rules that the issuing bodies, the Visas, the MasterCards, set. They are unable to move on the interchange fee.

Mr Hardcastle—The credit card is the Visa, MasterCard interchange and then you have the local EFTPOS interchange which is currently, or recently, under the Australian Payments Clearing Association auspices. You are looking at your ATM and debit PIN based debit transactions. If you take those two separately, we have credit card transactions and we talk to the banks on the credit card interchange fees. On the debit side of things we are represented on the APCA bulk collection and clearing system, which is the direct debit, direct credit, and on the Consumer Electronic Clearing System Advisory Council, which is ATM and EFTPOS. There is a process which is slow and ponderous, but it is there and we state our case situation, as do Coles Myer, Woolies and others.

Senator GIBSON—Do you have any idea what the average transaction for these credit cards would be in the Australian market? Are we talking about $100 or $200?

Mr Hardcastle—For Telstra?

Senator GIBSON—No. What I would like to get at is the sorts of numbers, in moving from a two per cent or 1.8 per cent fee to a per transaction fee. Are we talking about $5? Is there just a rough order? If banks did move to that sort of system and the consumers knew about it then obviously a slot of small transactions would be frightened away from actually using the card.

Mr Cartwright—Is that where the fee would be applied to the consumer, or the merchant?

Senator GIBSON—Either/or. In the end the consumer pays.

Mr Cartwright—Yes, absolutely. I am not aware of average type values.

Senator GIBSON—Okay.

CHAIRMAN—What is the average for Telstra?

Mr Cartwright—I am just trying to find it. I have the data here. I will find it. I will just keep going through it and I will come back to you on that one, if that is okay.

Mr Hardcastle—There is an interesting number I can throw up there, having come from the commercial world into Telstra and working more in the commercial side of Telstra's commerce and payments rather than in Telstra, the merchant. We talk about things like B to B and B to C. There is a definite push back for B to B transactions when a buyer and seller are taking part in a commerce transaction and they want to pay each other for anything over $1,000 because of the merchant service fee percentage, which is obviously considerable for $1,000 and over. Then you have the other end of the stick where somebody pulls out a credit card to pay for a bottle of milk at the local convenience store and then, of course, it is inhibitive of the merchant to take it in the first place because it affects his margin. If you take an Internet transaction of averaging $70—people buying with their credit cards over the Internet, CDs, books, et cetera—it is trends and it is industry specific.

Senator GIBSON—I saw a demonstration in Israel a few months ago of small transactions being done with the phone and being debited to the phone account. In time, are we not going to see that?

Mr Hardcastle—That is an evolution of technology.

Senator GIBSON—Yes. In other words, the phone becomes the smart card.

Mr Hardcastle—Absolutely. We do not want to go there. Don't take me there!

Senator GIBSON—No, but it makes sense that things would head that way.

CHAIRMAN—So it actually goes onto your phone bill rather than your credit card.

Senator GIBSON—Yes, that is right.

Mr Hardcastle—With Telstra and other mobile phone operators you can take a phone now and basically you can, just about free of charge, use a very simple mobile phone and pay into an account for air time. So when your daughter uses the phone, she is paying into that account and when she finishes talking and the account is empty, it is up to her to replenish it. You can go to an ATM and replenish that account. These sorts of things are happening—the actual use of what they call e-commerce, being able to significantly buy something from a mobile phone.

Technology is moving at a rapid rate. Take the technology we have in the marketplace today that you and I both use on a day-to-day basis, and age that against what is happening and the speed of change.

Senator GIBSON—Yes, sure.

Mr SERCOMBE—What percentage of your bills are settled by Internet payment?

Mr Hardcastle—A very small percentage.

Mr Cartwright—Yes, a small number. It only kicked off last year. It was 10,000 payments the year before, the previous financial year. Last financial year it was just under 200,000 payments.

Mr Hardcastle—It is a very interesting area, though, because the costs associated with it can be reduced from presenting bills online. Telstra has really not got into it a great deal. It is held back a little bit because of the nature of its position in the business and the impact it would have.

Mr SERCOMBE—Can you develop that theme.

Mr Hardcastle—We print a lot of bills, 10 per cent of all national bills. I think we are currently the only national biller. If you pulled the plug on some of that or started to push it down more on online space then you are going to have an impact in other areas.

Senator CONROY—Are you deemed to have billed somebody if you send it down the line to them?

Mr Hardcastle—Are you deemed to have billed somebody? You take the goods and we bill you after the event.

Senator CONROY—But in terms of sending it down the computer line?

CHAIRMAN—Are you talking about whether they have legally sent a bill by sending it online rather than through the post?

Senator CONROY—Yes.

Mr Hardcastle—Yes, those are some of the implications. Like email, you have to bill, et cetera, or you have requested to have that bill sent to you that way. Some of the benefits of billing in that way are that you can drill down on the bill and achieve a lot more data from what you have transacted—for instance, your telephone call, who you called, the time you used, et cetera. The nature of descriptive data or billing data is far greater and, of course, it does alleviate from your call centre costs when people query bills. That is relevant to the banking environment as much as it is to a utility. It is still technologically possible but is the market ready?

Mr SERCOMBE—What do you say to customers who raise the question of the security of the Internet from the point of view of credit card details and the like?

Mr Hardcastle—Historically, the use of credit cards and the mechanisms of credit cards have evolved over the last 30 years, where the interchange rules, et cetera, are being applied, and I think someone has mentioned the quite significant and costly technological investments in security capabilities, but they have not really been taken up because the usage has not been there.

Mr SERCOMBE—One of the points that is made to me occasionally is that, even if customers are potentially satisfied by the encryption in terms of the transaction itself, they are concerned about the security of the details stored with the other end.

Mr Hardcastle—The privacy issues and the security of the data stored is the bank’s business. It is a relationship between the card member, the consumer, and the bank. One of the questions that came up earlier was the ability for technology to provide interactive real-time details on costs. You have significant historical investment in large and complex mainframe applications where that data is somewhere. Getting it out, extricating it and passing it back into the new technology is one of the major issues. You talk about passing the card information down telephone lines or in any other form, in encrypted format. Does it worry you to go to an ATM? Does it worry you to send that credit card information on the telephone by pressing buttons, et cetera?

Mr SERCOMBE—I understand it. I am just talking about what sort of reaction you get from your customers on that sort of issue.

Mr Hardcastle—There is a reaction there. I think the interchange rules apply. I think charge-backs are more of an issue than actual fraud. The biggest fraud risk would be hitting the bank’s database and trying to extricate the card information, but that is what they have built up over the years.

Mr Cartwright—Those average transaction rates are $121 for a debit transaction, $166 for a credit transaction. They are average. That was as at last year.

CHAIRMAN—What would be a credit transaction?

Mr Cartwright—All the credit cards—Amex, Diners.

CHAIRMAN—Credit rather than debit.

Mr Cartwright—Credit rather than debit. For a credit card payment, what is the average payment?

CHAIRMAN—It is $166?

Mr Cartwright—Yes.

CHAIRMAN—Where the card directly takes the money out of the account, that is the debit one?

Mr Cartwright—The debit one is direct debit and we have a couple of direct debit by phone—applications for Bpay, T Shop debit and Redicard. It does not include Australia Post or cheques that come in through the mail.

CHAIRMAN—Are you a major supplier of technology and/or communication facilities to the banks in terms of their ATM operations and their Internet banking operations?

Mr Hardcastle—We provide data networks for ATM connectivity, but we are a telecommunications company so there is nothing in the middle. It is whatever they connect to it and whatever it connects to in the historical sense.

CHAIRMAN—So you provide purely the communications link.

Mr Hardcastle—Correct.

CHAIRMAN—I am just wondering whether either you or, if not you personally, someone in Telstra can give us advice in regard to the rate of development of technology to make feasible real-time disclosure of transaction fees in relation to electronic banking.

Mr Cartwright—We would need to take that on notice. I do not think we are qualified to make the call but certainly we can take that on notice and get you a response.

Mr SERCOMBE—But certainly some of your direct competitors are actively in that area of the market as well. Optus, for example, I know has arrangements with the ANZ Bank.

Mr Hardcastle—Just to clarify the question, you are talking about getting real-time fee data at the time of the transaction. Where is the transaction occurring from?

CHAIRMAN—An ATM or Internet banking or telephone banking.

Mr Hardcastle—At an ATM, as you apply to withdraw cash from your account, you would get a fee for that?

CHAIRMAN—Yes. It would tell you this before you do it.

Senator CONROY—An option would say, ‘Find out how much this will cost you.’

Mr Hardcastle—Yes, okay. Then the Internet banking one is reasonably explained because that is mainly Internet technology. The third one was a voice response system, so you would get a voice response telling you that it will cost you X cents.

CHAIRMAN—That is right.

Mr Cartwright—Do you really think we are able to make a comment on that, given that we do not know the systems that the bankers have? Is that what you are really asking?

CHAIRMAN—Yes.

Mr Cartwright—Are we up to speed with what the banking systems are through our connection—

Senator CONROY—The banks are telling us that they cannot do it. We are just hoping someone else can tell us they can.

Mr Cartwright—I think we would struggle to be able to make a comment on a banking system but—

CHAIRMAN—Someone in Telstra, I would have thought, would have knowledge of the way in which, for instance, Internet technology is developing.

Mr Hardcastle—There are many people in Telstra with Internet technology capabilities. As I said earlier, where is the data kept and where would you get that data from? That is inside the bank’s mainframe systems. That is where the data is. Your biggest challenge in that technology space is to extricate the data you want in real time, pass it back through an integration process into a web enabled environment or a voice response enabled environment.

CHAIRMAN—So it relates more to their internal computing system than to the communications system.

Mr Hardcastle—I would suspect.

Mr Cartwright—That is why it is going to be difficult for us to make that comment. We could make a comment on technology in general. I am sure that a lot of people could.

CHAIRMAN—If there is anything useful that you can—

Senator CONROY—The data cables you have down now would allow that technology to be upgraded. It is not as if you have to come back and say, ‘No, you need to lay new cables to be able to do this.’ You are going to come back and say the cable is up to it now and whenever they want to do it they—

Mr Hardcastle—You are touching into the world of where the Internet meets a database and that is probably the most sensitive area in general, including privacy, including security. It is what they call the contents base. You can do it. If you are building an environment from the ground up, for instance, loyalty points, you can get on the web and have a look at the scheme on the web. As you spend you can see your points coming up on a meter, so there is real-time information, interactive information going backwards and forwards, but that database has been built into the web space.

Senator COONEY—Can we just return to the question that Senator Gibson was pursuing about the flat fee. You are able to give us an average figure of what is paid by credit and what is paid by debit. Are the banks not impressed by that and say, ‘Well, we know there’s a level which is average for transactions and therefore we’ll be happy to take a flat fee’? What do the banks say to that?

Mr Cartwright—I expect that has not been part of the negotiation. It has been more, ‘Let’s look at the total number of transactions that we have.’

Mr Hardcastle—We are in vogue with everybody else who has to go to the banks—the situation, the standards, et cetera, the bodies that all exist. We could try it. The details of the standards and the way they are set out are based on banks, bank associations, government legislation, et cetera. Where we are now is the impact of the technology on those historical standards and provisions.

CHAIRMAN—Thanks to both of your for appearing before the committee and your answers to our questions.

[4.06 p.m.]

FAGG, Ms Kathryn, Managing Director, Banking Products, Personal Financial Services, Australia and New Zealand Banking Group

NASH, Ms Jane, Senior Manager, Government and Regulatory Affairs, Australia and New Zealand Banking Group

CHAIRMAN—We have before us your submission which we have numbered 10. Do you wish to make an opening statement in relation to your submission? If so, you may proceed and then we will follow with questions.

Ms Nash—We will. Thank you very much. ANZ welcomes the opportunity to assist the committee with its inquiry into ATM, telephone and Internet banking fees. We would like to tell you that ANZ supports effective disclosure. Effective disclosure we believe protects consumers by allowing them to exercise informed choice. Effective disclosure is timely, relevant and readily understood and valued by our customers. Disclosure initiatives should be tested with our customer base before they are introduced. The benefits to our customers of providing the disclosure must also outweigh the costs. The systems and equipment investment that would be required to support disclosure of fees relating to a particular transaction at the time of the transaction would be significant and would, of course, be borne by our customers.

ANZ also supports the transaction fee disclosure working group led by ASIC. The working group brings together representatives from banks, credit unions, building societies, consumer groups, government and others. The objective of the working group is to improve disclosure to give consumers the opportunity to better understand fee regimes and make more informed choices. The working group has met and agreed on a two-stage plan to improve electronic transaction fee disclosure. The first stage involves interim measures to improve consumers' understanding of fees that can be introduced in the short term, which would be the next 12 to 24 months.

The second stage involves identifying and agreeing on principles and guidelines that will result in material improvements in disclosure that can be adopted in the medium to longer term, the next three to five years. Principles and guidelines can be taken into account when investing in new systems or systems enhancements. ANZ believes that ASIC should continue its work with industry and consumers to ensure Australia develops a leading disclosure regime which meets consumer needs.

Finally, some facts about ANZ's customers to help put the inquiry into context: just over 30 per cent of our customers pay no fees at all. Fee exemptions apply to full-time students and under 18-year-olds, gold card customers and home loan and residential investment loan customers. Others are eligible for concessional rates. Concessional rates on excess withdrawal fees are available to country customers who do not have access to an ATM and disabled customers who are unable to use ATMs. Country customers are charged for excess card based withdrawals made through a designated branch at the ATM excess withdrawal fee rate of 65c. Disabled customers are eligible to make branch withdrawals from access simplicity accounts at the ATM excess withdrawal fee rate of 65c. Around 80 per cent of our customers pay no excess withdrawal fees, either to having an exemption or managing their transactions within the free transaction limit.

The average number of transactions done in each month by over one million customers with an access account that offers a combination of electronic and customer service is 17. Of these 17, 12 are chargeable. The other five comprise deposits and direct debits and credits which are free. This gives a total cost for the month in excess withdrawal fees of around $2.70 and this is a vastly different picture from the one generally presented in the media by Cannex. Typical behaviour for a combination of electronic and customer service according to the Cannex scenario is 59 transactions a month, of which 41 are chargeable. The total cost per month of the Cannex scenario is over $35. That is the end of our statement.

CHAIRMAN—Thanks very much, Ms Nash. You indicated there that 30 per cent of your customers are able to run their accounts on a totally fee free basis. As I recall, the ABA claimed 75 per cent of customers across the board or—

Senator GIBSON—It was 25 to 75.

CHAIRMAN—It was a range of.

Ms Fagg—Yes, and I suspect it is also which fees we are talking about. When we say ‘fee free’, that is our 30 per cent. Jane mentioned the number of customers who do not pay excess transaction fees and that is then 80 per cent.

Senator CONROY—What is the difference between a fee and an excess transaction fee?

Ms Fagg—Typically the way we charge customers in terms of fees is in two structures: first of all, there is an account servicing fee which is a monthly fee; then there are transaction fees if customers go over the number of free transactions during the month.

Senator CONROY—And that is the excess?

Ms Fagg—Yes.

Senator CONROY—That is what you would call excess?

Ms Fagg—That is right, once they go past the number of free transactions for that account.

CHAIRMAN—I note from your submission that surcharging as it occurs in the United States is not an issue in Australia but with the increasing number of privately owned ATMs is that not becoming an issue? There were figures earlier today that there were now about 2,000 of those privately owned machines already operating in Australia. Obviously they will increase.

Ms Nash—It is on a very limited scale at the moment. The banks, as far as I know, do not surcharge. If they did move to surcharging then we think they should disclose the surcharges to the customers so they know what they are up-front.

Senator CONROY—Can I just clarify that. Is the surcharge on top of the other charges involved? That is why you call them surcharge, I presume.

Ms Nash—That is right. It is different from a foreign ATM fee. A foreign ATM fee is where you charge your own customer for using another bank's ATM and the surcharge is a convenience fee, if you like, for the maintenance of the ATM.

CHAIRMAN—I asked earlier about the feasibility of in effect abolishing the foreign ATM fee so that all the customer would be charged was the basic ATM fee that each bank charges. I assume there is some sort of central clearing system for the ATM structure in the same way there is a cheque clearing system which all banks are part of. What is the justification for having, if you like, a second fee for using an ATM that is not of your own bank?

Ms Fagg—The way the fees are charged with the foreign ATM is that clearly there is an interchange fee that applies, which is between the banks. Therefore, the fee is in some respects obviously looking to recover that interchange cost, plus the other costs associated with handling the transaction. There are two issues here. One is that by charging the foreign ATM fee, in effect you are aligning the cost of that with the price of it. Clearly there is a cost, so one way or the other we would be looking to recover it. At least this way we are sending a very clear signal to customers as to how the cost is being recovered.

The other issue that we are aware of is that by having the banks able to charge for those it encourages the development of the ATM network in the sense that you are aligning where the cost and the income is for that channel.

Senator CONROY—What is your own cost for using your own ATM? What do you charge?

Ms Nash—Sixty-five cents.

Senator CONROY—And the foreign?

Ms Nash—The foreign ATM fee is $1.50 for a withdrawal and $1.25 for an account balance inquiry.

Senator CONROY—Sixty-five cents is cost recovery on your own network out there and you have had to build it. To simply plug into somebody else's network and interconnect is twice the cost.

Ms Fagg—There is a distinct difference between the two prices we charge the customer. This is partly, of course, reflecting the fact that we are saying to customers with our own ATMs, 'This is part of the service that we provide in terms of you having the account with us.' There is a balance between the general cost and the convenience cost.

Senator CONROY—I am looking to find out where your doubling of costs was to the consumer. You provide the infrastructure for the 65c transaction. All you do is plug into somebody else's and yet it is more than twice the fee.

Ms Fagg—The difference in the cost structure is the interchange which is involved as soon as you are talking about interacting with another bank.

Senator CONROY—Perhaps that is why Allan Fels wants to chat with you all.

CHAIRMAN—Is there an element of disincentive built into that fee to encourage people to use their own ATMs rather than other bank ATMs?

Ms Fagg—We would definitely see that part of the way we charge for our own ATMs is part of the overall value package that we provide to customers in terms of using the account with us.

Senator CONROY—Ms Nash, you have been here most of the day. I am not sure when you arrived here, Ms Fagg, but we have been grappling with the technology questions in terms of trying to understand the three- to five-year timetable that has been talked about in terms of what you would need to try and go onto real time. The thing I am probably the most confused about is when you make an ATM withdrawal you get a real-time bank balance. Or maybe you think you are getting a real-time balance—and I am going to be fascinated by this answer—but the impression you get is that you are getting a real-time balance. My question is, is it a line of computer code that allows you, therefore, to get your real-time balance?

Ms Fagg—Yes.

Senator CONROY—Therefore, it must just be another line of computer code to provide the historical data. It is obviously not that simple so, please, take me through it.

Ms Fagg—Let me start at the way we manage the account information overall. Each customer will have an account in our host or core processing systems. That is where we keep all the data about the customer and those get updated each evening in a batch process. Those typically run between 11 p.m. and 6 a.m. in the morning. That is when all the updates are done to the customers’ accounts. There is linkage then, obviously, between the ATM and our core processing systems. In terms of getting real time down at say—will I use an ATM as the example?

Senator CONROY—Yes, please.

Ms Fagg—The first thing is that you would need your core systems to be truly real time. There are a couple of issues. One is your core systems would need to be real time, which none of the banks have at this point in time. I am not saying that does not happen anywhere in the world but my best understanding is that it is likely that is a couple of years away before the core systems themselves are real time, although clearly the world is moving to real-time computing systems.

Senator CONROY—So you have your core and you have a stand-alone unit that it is in between the ATM. Each morning my balance gets loaded into the stand-alone unit which accesses the ATM. Therefore, that is how it is able to keep track of my balance. I am not sure what yours is but I think at the Commonwealth Bank I am not allowed to take out more than $800 or $1,000.

Ms Fagg—It depends on the customer.

Senator CONROY—Depending on the customer and those sorts of things. As you can see, I am a very bad customer.

Ms Fagg—No. In fact, I was thinking you were a good customer.

CHAIRMAN—He is just a bad boy.

Senator CONROY—Presumably that separate stand-alone is able to keep track of whether I have taken out more than $800 without going back into the mainframe. So there is a—

Ms Fagg—There is a posting system. I am thinking that we could probably get some diagrams of this that would explain it.

Senator CONROY—I am drawing them here as we go.

Ms Fagg—Perhaps, if you would be happy, we could get very specific. Even though I thought I was fairly familiar with the technology, I could get it wrong. But, yes, we have the core processing system and then the link between those platforms and to the delivery systems. There is updating that goes on but the overall batch process occurs at night-time.

Senator CONROY—What I am calling the stand-alone bit in the middle would almost need to be as big as the core to maintain all of the historical—

Ms Fagg—You would never do that because then you would have an inordinately expensive and complex system. What you are talking about is having the core systems real time, which would hold information probably in what we would call middle ware, which would then be accessed by the delivery channel back to that real-time system. There is an issue right now that our systems are not real-time systems. Really, the banking industry is a number of years away from having real-time systems because we have to have absolutely industrial strength systems, given the amount of information we contain, which is why we operate in batch mode.

The other issue that is of interest for us on this question is the structure of our accounts. As you know, we provide a number of free transactions each month to customers. The way we charge that is that at the end of the month we look at the transactions and go back in and do it in reverse order. So the transactions that we make free are the most expensive transactions that people do. If we are talking about electronics, the first ones we make free are the ATMs, then we drop to phone banking and then finally Internet banking. I guess there would be two options if you got to the point of real time. You could perhaps give an indicative price at the time that the customer was doing a transaction, saying, ‘If this is an excess transaction at the end of the month, it would cost this much money.’ The alternative, of course, is to change the structure of our accounts. Rather than have free transactions, every transaction could cost. There are options like that. Right now it would be very difficult for us to —

Senator CONROY—Alternatively it could just be the first stage.

Ms Fagg—That is right.

Senator CONROY—As you say, you are benefiting the customer at the moment. The true cost to the customer may be that, instead of getting that benefit of having the eight more expensive ones, if the first eight that they do are the Internet—

Ms Fagg—Chronological order.

Senator CONROY—Yes, chronological order.

Ms Fagg—Then the third issue is in terms of cheques. Those are obviously not real-time value systems. Also, if a system is offline you will not be capturing that information either, so there is always going to be an element of some transactions which are unlikely to ever be real time. You would not, therefore, have 100 per cent real time. It is hard to envisage you would ever have a 100 per cent real-time system.

Senator CONROY—Your cheque does not count towards your eight free transactions, does it? There is always a clearing charge?

Ms Fagg—No, they count.

Ms Nash—They count, for withdrawals.

CHAIRMAN—But you could have a caveat: 'The fee for this service is X, subject to unpresented cheques.'

Senator CONROY—That is provided people have cheque accounts. You could have a system where, if a person has a cheque account, then you put the caveat in to say, 'By the way, if you've written four cheques yesterday, this is not going to be quite right.' But if they do not have a cheque account, then presumably they cannot quite check.

Ms Fagg—Yes, although you would want to be very careful how many exceptions you made, because that greatly increases the complexity and therefore the costs of the system. But when we are talking real-time systems the cost is very significant here if you are talking about changing out your core processing systems. To give you a sense of that, for any of the major banks in Australia to change out a core processing system, we are talking in the hundreds of millions of dollars. If we are talking about the linkages and into the ATMs, you are probably in the tens of millions of dollars. Obviously, when we talked about where this might lead over the next three to five years, there would be this real trade-off between what value we are offering in terms of disclosure versus what will be the cost of implementing that system.

Senator CONROY—I guess you have built a rod for your own back by people like me, who think they are getting a real-time balance and therefore think, 'If you can do it for a real-time balance'—even though, as you say, it is not a real real-time balance. Your real-time balance is first thing in the morning, and that is all.

Ms Fagg—The different banks have slightly different systems of the way they work this too, which will not surprise you. We are pretty proud of how up to date the information is that we provide to customers. Australia has a very robust banking system in that sense.

Ms Nash—Could I just add to that? In the case of ATMs, about a third of our ATM devices are too old to carry the kind of information that they would be required to carry, so we would have to replace those as well in order to carry real-time messages to our customers.

Senator CONROY—You would have heard us a couple of times today refer to this article about ATM manufacturers saying that they can now produce these new whizzbang ATMs to give you stamps and tickets and those sorts of things. You are presumably looking at that anyway as part of your updating and presumably you always update your oldest along the way.

Ms Nash—I would expect that over time we would replace that stock anyway. The point I am trying to make is that in addition to costs associated with core systems and so on there are costs there. Ultimately the customer has to bear them, so that is what Kathryn was saying: we need to be sure that this is something that would be truly valued by our customers, given the sorts of caveats that we have to give about our ability to be 100 per cent accurate at any given time.

Senator CONROY—I said to the banking association earlier that I have heard rumours that banks are to be putting advertising onto their screens on ATMs. That could be a way of assisting the changeover that does not necessarily lead to increased costs for the consumer. There is a substantial market there, I presume. People stand in the queue for a long time.

Ms Fagg—I must say I am not in a position to know how much revenue is likely to come from advertising, be it on screen or on the docket, which would be some offset against the cost of—

Ms Nash—I do not think we have worked out the numbers on that one.

CHAIRMAN—I have a question which might be a bit sensitive but I hope you might be able to answer it. In the course of considering this issue and developing the inquiry it seems to me that there is some variation between the banks in terms of the extent to which they think it is feasible to comply with real-time disclosure of fees and the time frame over which that might be achievable. That is perhaps reinforced by the fact that you are appearing before us. Some other banks have declined to appear before us and simply left their presentation up to the Australian Bankers Association to do it on their behalf. Is there some degree of divergence of view among the banks as to the feasibility of the proposition for real-time disclosure?

Ms Nash—I do not know that I would want to speak on behalf of other banks. For our own part we have no firm plans on the drawing board right now. As Kathryn said, if we are talking about having to replace core systems because everything is geared towards batch processing at the moment, then we are talking in the hundreds of millions of dollars. That is obviously the sort of investment that requires planning and competes for resources and so on. It is very difficult to be categoric about the time frame.

Senator CONROY—I think you might have heard me this morning. David Morgan is quoted from an article last year as saying that it costs one cent for a Net transaction. Just looking at your submission on page 9, you have Internet access withdrawal fees set at 20c. Sounds like not a bad profit per transaction.

Ms Fagg—If I could answer that question. In fact 20c is well below the cost of how much it actually costs to provide Internet banking services at this point in time. The reason we have actually chosen to go in below cost is to actually encourage people to use it and we have purposefully, therefore, made the decision that we would go under EFTPOS as well.

Senator CONROY—That is how ATM started. People were told, 'If you go outside, it will be cheaper if you use the ATM,' and then people suddenly found the ATM fees going up. I guess people will be concerned that once everyone transfers on to the Net and there will not be branches any more nor all those ATMs and there is only the Net, then they will be at the mercy of the Net fee.

Ms Fagg—There are a couple of things here. First of all, the industry has over a number of years moved to a much more user-pays method of charging customers which was necessary to take out the cross-subsidies which, of course, has led to branches being significantly more expensive than ATMs now. I do not think there will be any question that there will be a very robust level of competition in the Internet arena and, at this point in time, we are obviously cross-subsidising the cost of Internet within our current systems. But I would expect if we went beyond that, then there would be pressure in the marketplace to move down.

I also would like to say that everything we understand about financial services would suggest that it is unlikely that we will ever get away from having a physical presence and that it is extremely unlikely that we will ever go to an Internet only environment, although we understand that there are obviously start-ups who are looking at that model. But for an existing operation it is very clear that customers, even if they are Internet users, also value the physical presence and there are clearly a large a number of customers who prefer using a physical presence. So the terminology you hear is either 'clicks and mortar' or 'bricks and clicks' and variations like that, but all the models that we are seeing that are successful, be it in banking or other industries, have both an Internet presence and also a physical presence. I would argue that in financial services a physical presence is even more important because the question of security and trust is so important for customers, given that we are talking about money transferring.

The other experience we have had is that very few customers actually wish to purchase financial services over the Internet and, therefore, the physical presence has remained particularly important for sales distribution. I am sure it is feasible at some point in time but not—

Senator CONROY—So David Morgan has his facts wrong when he talks about one cent for an average transaction?

Ms Fagg—I certainly do not know where he got that information. I am sure that we could envisage where you looked at part of the transaction and said, 'That was a very low-cost transaction.'

Senator GIBSON—Marginal cost as opposed to average cost, I suspect.

Senator CONROY—He says:

For the average transactions our customers do over the Net it costs about 1c relative to about a dollar in the branch. We believe we can get sufficient cost savings out of our e-commerce initiative to be self-funding.

A big call?

Ms Fagg—Yes. I am sure he is the only person who could answer it. I certainly know in terms of our own business and the costs associated with it that 20c is way below cost.

Ms Nash—That one cent certainly could not be a fully absorbed cost. It would only be partial.

CHAIRMAN—So it could be the marginal cost of one extra customer doing—

Ms Fagg—It could be, or one extra transaction.

Senator CONROY—But that is the trick of the Net. Once you set the infrastructure up and you get above a certain point there is no extra—

Ms Fagg—Yes, there is, or it seems to be, because we just keep adding first of all capacity, so you have to add hardware—

Senator CONROY—I appreciate the reason that dot coms do not make any money, because they are all still adding capacity, but there comes a point when they are satisfied, where every single click is pure profit. I can introduce you to Evan Thornley from Look Smart. He will explain it to you at great length because he is doing okay out of it so far. But that is fundamentally the business model. You have an infrastructure that everyone keeps upgrading all the time, but once you hit a certain point every single click is pure profit.

CHAIRMAN—Because you do not need any further upgrade.

Senator CONROY—You have your advertising there; that is what they are selling it on. It is pure profit.

Ms Fagg—Yes. I would be surprised if there is any business model—

Senator CONROY—No-one has hit it yet. Amazon, dot com and all the rest of them have not hit it yet, but that is fundamentally the business strategy they are all working on.

CHAIRMAN—So it is an unproven theory yet.

Senator CONROY—He is still going all right, even after the crash.

Ms Fagg—We clearly believe there is enormous value in the Internet channel which is why we are investing so heavily in it and we are very pleased that we have such high penetration of our customer base because we actually do think it has real advantages to the customer. It also has advantages to the organisation as well, so we are pushing it very hard.

Senator CONROY—Hopefully, as you say, it will lead to lower costs for everybody. Unfortunately we have not been able to get MasterCard or Visa to appear because I wanted to ask them this question rather than you guys. I was lucky enough to be in America earlier in the year and I visited MasterCard—I think it is north of New York—and they drew a diagram for me about how their system works. So their hub is in the centre, and the spokes are all the different banks, and they have agreements with all the banks, whatever the cost is, to move the transactions backwards and forwards. Banks for the foreign issue are just making straight B to B whereas they could, if they chose, access an existing computer network at an existing cost without having to go and negotiate separately what appears to be more expensive costs on a B-to-B basis. Does what I am describing make any sense to you, or not? It is okay if it does not because I am just remembering back six or seven months.

Ms Fagg—No, I cannot understand why they would want to go to a more expensive option.

Senator CONROY—It is called monopoly where no-one can—Allan Fels is actually having that conversation with you, too.

Ms Fagg—I am not familiar with it.

Senator CONROY—No, as I say, they are not here unfortunately for me to try and get them to draw something up on the whiteboard for us. They were very keen to try and get into this market. Even though they are all owned by the banks, the banks prefer to deal B to B rather than come through an existing network that already had structure, cost, et cetera.

Senator COONEY—We are talking about disclosure. I have been talking about the contract. Do you know what provisions there are in the contract about disclosure? I will tell you why I am asking this. If the banks do not disclose I am wondering what remedy there is other than going somewhere else.

Ms Nash—I presume there you mean the terms and conditions?

Senator COONEY—There is a contract. I do not know whether you have heard me on this today. The only way the banking industry can operate with the customer is through some sort of agreement. What is underneath all this is a contract between the customer and the bank. We are talking about disclosure and, for a person to be able enforce the agreement that the bank might have about disclosure, there have to be some provisions about disclosure in the contract and I am trying to find out if you could give us a copy of it.

Ms Fagg—The terms and conditions? Yes, we can certainly provide those.

Senator COONEY—Has the bank ever been sued, do you know, for failing to disclose? I am trying to get some assessment of how real our conversations and discussions during the day are about disclosure, because it seems to me that nobody has ever really tried to enforce disclosure.

Ms Fagg—I am not aware of any although I am sure we could follow up and see if there any examples.

Ms Nash—Yes, I think we would have to take your question on notice and follow it up for you. One of the ways that we can track that is through the sorts of complaints we get from our customers and whether or not we get any complaints about disclosure or not having disclosed something properly, so perhaps we could follow that up.

Senator COONEY—There are two things, aren't there? Just out of customer service you would say, 'Look, if you have a complaint, we'll follow it up.' That would be polite, if nothing else. But what I am trying to find is whether there is any legal basis upon which a customer could enforce a failure to disclose. Can you think of any?

Ms Fagg—I am just thinking in terms of the codes that we participate in and are governed by. They certainly have requirements in terms of the banks: if we are changing a fee, the amount, how and when we need to notify customers. So there clearly are avenues there.

Ms Nash—There is also, of course, the Australian Banking Industry Ombudsman where people can take complaints and that is part of the code. It says in the code—

Senator COONEY—But he has no legislative underpinning. He can only make recommendations which the bank may or may not follow in the end.

Ms Nash—In practice, I think the banks follow it.

Senator COONEY—In practice. That is exactly what I am saying. There is no legislative underpinning.

Ms Nash—Is that an issue if the banks in practice follow it?

Senator COONEY—I will just explain what I am saying. We have been here all day talking about disclosure and whether there has been good disclosure and whether there is real-time disclosure and so on. The only basis we can be here is as legislators who are either going to legislate some law or not legislate some law. The banks are saying that disclosure is an issue that they pay attention to and give some weight to. But what I am trying to find out is whether there is any basis upon which a customer who, whether rightly or wrongly, feels that he or she has not had the disclosure that he or she wants, whether that person can, in fact, do anything other than complain or go to some other bank.. What I am trying to do is get a picture of what the law actually says about the matter.

Ms Fagg—I think we would need to take that one on notice and we will follow it up for you.

Senator COONEY—You cannot think of any case that has ever been taken about failure to disclose or anything like that?

Ms Fagg—No, but we can follow that up.

Ms Nash—None springs immediately to mind but we can follow up.

Senator CONROY—That gentleman we had before us a week or two ago said he was taking the Commonwealth Bank to court on that very issue, from recollection.

CHAIRMAN—They had not given appropriate notice of fee changes or something.

Senator CONROY—Yes. He was claiming some $20 billion or $20 million or something from it. We had a gentleman here before us two weeks ago and it got a little bit of coverage in some of the press about failure to adequately notify the change, sort of a NAB style liability problem.

Ms Fagg—We will check that. We will just obviously be talking about ANZ’s experience.

Senator COONEY—Yes, ANZ’s experience. ANZ might never get a complaint about failure to disclose, everybody might say.

Ms Fagg—I am not aware of specific complaints about failure to disclose. That does not mean though that customers have not said, ‘I didn't fully understand the conditions of my terms and conditions.’

Senator CONROY—I guess the basic foreign exchange loans where people who have in the end won court cases where they said, ‘We didn't really understand the potential exposure we had if the dollar moved in the wrong direction,’ would be a potential example, though not quite a simple fee transaction.

Ms Fagg—Yes, they are obviously talking about fees.

CHAIRMAN—No, it is not a fees issue.

Senator CONROY—It is not a fees issue, but they did not understand the true potential—

Ms Fagg—The nature of the—

Senator CONROY—Yes, the risks that they were entering into.

Ms Nash—Of course under the FSRB there will be quite strict—

Senator CONROY—You have seen it, have you? Tell us all about it. We have not seen it.

Ms Nash—We understand there will be quite strict disclosure requirements.

CHAIRMAN—This would be the draft bill.

Ms Nash—The draft bill, yes.

CHAIRMAN—Not the final bill.

Ms Nash—I do not think anyone has seen the final bill would be my understanding.

Senator COONEY—There was some material put to us earlier in the day which said that people were upset that the banks did not tell them what was going on, but that has not been your experience?

Ms Fagg—As I said, we would definitely have customer complaints where people felt they did not absolutely understand the terms and conditions or the way the account would operate. We would definitely have examples of that.

Senator COONEY—But not much.

Ms Fagg—No, for the size customer base that we have. In fact, obviously if we felt that there was an issue we would try to rectify that because it is not particularly helpful for us if customers do not understand the way the account works.

Senator COONEY—If you could, because there were some witnesses from consumer groups saying that there were some problems with the information that was coming out from the banks and what was disclosed. They certainly did not mention the ANZ Bank; I do not think they mentioned any bank. Maybe the ANZ is the one that is the good one. They all might be good for that matter.

Senator CONROY—I just had a question on code of practice, code of conduct. Do you have an internal complaints handling system?

Ms Fagg—Yes.

Senator CONROY—Could you just briefly outline it for my general info?

Ms Fagg—I guess what typically happens in an organisation like ours is there are complaints dealt with regularly at the front line and so, where possible, they are dealt with immediately where they come into the organisation because often it is a case of misunderstanding, so trying to rectify that is dealt with. In the event that they, however, come in centrally, we then have a special complaint handling unit that deals with those complaints. They track the reasons and the type of complaints that come through, which is exactly where we will go to say, ‘Do we have complaints?’ such as has been asked of us this afternoon, to see what volumes are coming through on that particular item.

Senator CONROY—And if there is a recurring one, do you keep 20 of this and 200 of this, or you suddenly think, ‘We’ve got a systemic problem now. We've got to deal with it’?

Ms Fagg—That is exactly what we try to use the complaint handling system for—much more about how do we improve things—so if we do get suddenly a shift in the number coming through, ‘What’s going on here? Can we understand it?’ because we might have done something that would have inevitably led to complaints and we understand it, or alternatively is there some new issue coming through that we do not understand and is a surprise to us.

CHAIRMAN—In relation to the current state of technology, I understand that on the day the Commonwealth Bank and the Colonial announced their merger they instantaneously put a message on each of their ATMs that no longer was the other bank's ATM a foreign bank ATM and you could use them without fees. Clearly to that extent the technology exists to send information down the line.

Ms Fagg—Yes.

CHAIRMAN—The shortcoming in the technology at this stage, as you present it, is actually getting individual information out of the central record system.

Ms Fagg—That is right. If we need to send a message down to the ATMs, we can do that. I cannot tell you the time frame but it is not very long if you have a consistent message you want to send. But it is sort of a dumb message in the terms that it goes—

CHAIRMAN—Yes, a general message.

Ms Fagg—It is a broadcast. It is very different then to saying we have specific information about an individual and how they have behaved and moving that down the line to the person at that point in time.

Ms Nash—Can I just add to that. What we were referring to before as either middle ware or that Senator Conroy talked about as some sort of stand-alone system holds the absolute minimum amount of information to ensure that these transactions are processed as fast as they possibly can be. All of their other transaction history type information actually sits somewhere else and that is why they are quite qualitatively different things.

CHAIRMAN—You charge a fee for foreign bank ATM use, do you not, irrespective of the number of free transactions allowed? They do not come into the foreign bank ATM situation, do they?

Ms Nash—No, that is right.

CHAIRMAN—So would it not be relatively simple to inform the customer of the fee they are being charged at a foreign bank ATM; not surcharge in the sense that surcharge is used in America, but the surcharge for using a foreign bank ATM, as against their own bank ATM? Would you not be in a position at this stage to at least provide that information to customers?

Ms Fagg—I guess the question is what kind of information you would be providing. In our case we would be saying if someone from another bank used our ATMs, what message would we be providing them. Typically that would obviously have to be a very broad statement so the question would be, ‘Would that be of value to the customer and, if so, would it be on screen or would it actually be sort of a notice next to it?’ But it is certainly something we are willing to pursue and I believe we are through the ASIC working group.

Ms Nash—That is right. We are looking at that through the ASIC working group, although because we have only had two meetings and the last meeting we concentrated on statement disclosure, as you know, this will be a matter for our next meeting. The research that was commissioned by ASIC suggested that those consumers in the focus groups at least did not seem to value this very much. They said that there was a high level of awareness. Even if they did not know precisely the amount of the fee, they knew that it existed, so it would be an issue for us in terms of having to be sure that our customers wanted us to do this.

CHAIRMAN—But you could be reasonably specific in the information, could you not? You would know what each bank charges their customer for using your ATM instead of their own?

Ms Nash—Not necessarily because you would have to have a mechanism in place to find out what that amount is. It would be much more likely that we would have a generic warning that would be along the lines of, `You may incur a fee for using this ATM.'

CHAIRMAN—But would it not be a standard fee?

Senator CONROY—It is one of the free ones. If they go backwards at the moment from the most expensive—

CHAIRMAN—No, foreign bank ATMs are not included in the free. There is always a charge for a foreign bank ATM use.

Ms Nash—The foreign ATM fee varies, I think.

CHAIRMAN—From bank to bank?

Ms Nash—From bank to bank.

CHAIRMAN—But not from customer to customer within a bank?

Ms Nash—No.

CHAIRMAN—So if it was a National Bank customer coming to your ANZ ATM and putting their National Bank card in, would not the technology send down the line, ‘The National Bank is charging you a dollar to use our ATM’? If the Commonwealth Bank charge is 80c, he puts a Commonwealth Bank card in, the message comes down the line, ‘The Commonwealth Bank will charge you 80c to use our ATM.’

Senator CONROY—Those sorts of strips are available if you put in your card overseas. You can be in France or Spain or wherever and it will flash up English because it recognises your card.

Ms Fagg—I am not a technologist but I am sure the technologist could tell you this can be done. No question. The issue will be at what cost that would be. I have no idea what would be involved. I do not know order of magnitude, because again you are starting to talk about logic that you are going to have to pass back to the machine.

Senator COONEY—It was said before by Telstra that they make agreements with banks. I do not want the details of the agreements, but does the ANZ make special agreements or different agreements with big customers like Telstra?

Ms Fagg—In terms of their banking arrangements?

Senator COONEY—Yes.

Ms Fagg—For very large customers like that the banking proposition would be absolutely tailored to individual customers.

Senator COONEY—But down the other end of the line it is one that you would have on the computer and you would press the computer and it would come out as a standard agreement.

Ms Fagg—Yes, in terms of the—

Senator COONEY—Where does it stop? How big would you have to be as a customer to get a special contract or a tailored contract, I should say?

Ms Fagg—It is actually interesting. Let me tell you what we do and I think a lot of the banks do. We will actually offer packages for people who take out, say, an average mortgage in Australia so they will be on terms and conditions which are somewhat different to someone just having a small account with us, and so it goes from that, which would be an average mortgage in Australia. Clearly, once you get up to the high end, you have very tailored propositions. So it is hard to say. It starts very low in the marketplace, where we start doing packages.

Senator COONEY—And terms as to disclosure vary from agreement to agreement.

Ms Fagg—As soon as we are in the consumer sphere there is certain legislation. There are guidelines captured in the code that we have to abide by and which we do abide by—when you are up in the wholesale market. Obviously consumers are not in the wholesale market.

Senator COONEY—We could take it that in your bank anyhow the guidelines are ones developed by the banking industry, are they?

Ms Fagg—The code of banking practice and the electronic—

Ms Nash—I am sorry, could you repeat the question?

Senator COONEY—How was the code of banking practice developed?

Ms Nash—I think it was developed between the industry and consumer groups and government, so a tripartite kind of process.

Senator COONEY—But it is something that the banks have written out, is it not? It does not have any legislative underpinning. Do you understand what I mean by that?

Ms Nash—Yes, it does not. It is a self-regulatory code.

Senator COONEY—Yes, which you could contract out of.

Ms Fagg—It is hard to imagine how, as a player in the market, you would actually do that.

Senator COONEY—That is not the question I asked, sorry. You can contract out of a code of practice. That is just a simple proposition. You might not want to, but you can legally contract out of a code of practice.

Ms Fagg—Yes, but I guess the other issue for us is maintaining our customer base.

Senator COONEY—I can follow all that. That is the competition. That is what everybody has been talking about all day—the competition underpinning it. I am talking about the legal underpinning or the legislative underpinning, and there is none.

Ms Nash—Equally, I do not think there is much incentive for us to try to contract out of it.

Senator COONEY—Yes, I understand. All I am getting at is that right throughout the day everybody has been talking in terms of competition as the force that keeps everything on the rails. There does not seem to be any particular regard to the legal or legislative situation as a driving force for keeping things in the banking industry as they ought to be. That is all I am saying, and that seems to be right.

Ms Fagg—I feel as though I am out of my depth on this one. I am happy to discuss it with our lawyers if you would like me to come back to you on it.

Senator CONROY—I had a question on maybe a halfway house in between now and when you get the real-time call. In the same way you download into what I call the stand-alone—I will keep using that terminology so I do not get confused. In the same way you download in the morning, if you like, 'Here is the balance,' do you have a capacity to download the number of transactions located in that month so that you could at least give them an indication of, 'At the opening of business today you had made four free transactions. You have four left this month.' That way at least a customer can say, 'I made two earlier today, here is my third.' Is there a halfway house that we can get to?

Ms Fagg—Can I say that I do not believe that our systems today would enable us to do that because that is not the way they are configured. Technologically you would have to say you would be able to do that. How difficult that is and what sort of expense is involved, I do not know. I suspect it is significant, though, because once again you are talking about a lot of information about a lot of customers which you are going to have to hold. But I cannot answer the question in terms of what the potential impact would be.

Senator CONROY—I am trying to find somewhere between having to change your mainframe and—

Ms Fagg—Clearly and by far the most expensive scenario here is having to change out your core processing systems to make them real time. Other options will be much lower cost than that. That does not mean they might not be very significant costs, but they will be lower costs.

Senator CONROY—It will be a short-term solution.

CHAIRMAN—If there are no further questions I thank both of you for your appearance before the committee and the way in which you answered our questions. You have been very helpful to our inquiry. That concludes the hearing for the day.

Committee adjourned at 4.58 p.m.