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JOINT COMMITTEE ON CORPORATIONS AND SECURITIES

Thursday, 30 March 2000

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

Senators and members in attendance: Senators Chapman, Conroy and Gibson and Mr Cameron and Mr Rudd

Terms of reference for the inquiry:

Oversight of the Australian Securities and Investments Commission

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COMMITTEE MET AT 2.14 P.M.

CAMERON, Mr Alan**, Chairman, Australian Securities and Investments Commission**

LONGO, Mr Joseph**, National Director, Enforcement, Australian Securities and Investments Commission**

CHAIR—Welcome to our hearing this afternoon, which involves the committee's role in its statutory oversights of the Australian Securities and Investments Commission. We have periodic meetings with members of the commission in that regard. Do you wish to make an opening statement?

Mr Cameron—I just want to mention briefly two things, Chairman. The first is that in the report I referred to the difficulties that the commission was having with the finding of the High Court that conferring jurisdiction in Corporations Law matters on the Federal Court had been found to be unconstitutional. That is the so-called Wakim decision from June last year. I think I really need to say that that situation has been made more complex and more difficult since the report was written, not so much by the individual decisions in the Byrnes and Bond cases, because they both involved legislative issues relating to the power of the federal Director of Public Prosecutions, but rather by the argument and the potential impact of an adverse decision in the case of Queen v. Hughes.

I HAVE MENTIONED THIS PUBLICLY—I REALLY MAKE NO APOLOGY FOR DOING THAT—BECAUSE I THINK IT IS NECESSARY TO ENSURE THAT THE COMMUNITY IS AWARE THAT THERE MAY BE QUITE AN URGENT ISSUE INVOLVED IN BREATHING FRESH LIFE INTO THE CORPORATIONS LAW, PRESUMABLY INVOLVING SOME FORM OF REFERRAL OF CORPORATIONS POWER BY THE STATES AND THE NORTHERN TERRITORY TO THE COMMONWEALTH. WHETHER THAT IS DONE BY A REFERRAL OR BY CONSTITUTIONAL AMENDMENT IS NOT REALLY TO MY POINT, BUT I FELT I SHOULD DRAW YOUR ATTENTION TO THAT. IN THAT SENSE, I AM TEMPTED TO SAY PERHAPS THIS IS OUR LAST MEETING! CLEARLY I DO NOT ACTUALLY THINK IT WILL BE OUR LAST MEETING; IT IS RATHER THAT IT DOES HAVE SOME QUITE SERIOUS IMPLICATIONS. I KNOW THAT THE STATE GOVERNMENTS ARE BEING MADE AWARE OF THAT, IF THEY WERE NOT ALREADY AWARE OF IT, THROUGH THEIR ATTORNEYS-GENERAL, AND THERE WILL NO DOUBT BE SOME DEVELOPMENT ON THAT SCORE.

THE OTHER ISSUE WHICH I SEE, LOOKING BACK ON IT, DID NOT ATTRACT AS MUCH ATTENTION AT THE TIME AS IT WOULD NOW IF I WERE WRITING THIS OVERVIEW AGAIN IS THE CURRENT STATE OF THE MARKETS. I HAVE BEEN READING THE VIEWS OF MY FELLOW REGULATORS IN OTHER MARKETS, AND THERE IS A COMMON THEME TO IT: THAT REGULATORS ARE CONCERNED WITH THE WIDE NATURE OF SHAREHOLDING BEING COUPLED WITH WHAT LOOKS INCREASINGLY LIKE SOME SORT OF BUBBLE ON THE STOCK MARKETS. THE ISSUE IS WHAT THE ROLE OF THE REGULATOR IS IN THAT SITUATION. IT IS CLEARLY NOT OUR ROLE TO TALK THE MARKET DOWN SIMPLY FOR THE SAKE OF DOING THAT, BUT I THINK IT IS OUR ROLE TO SEND SOME MESSAGES TO INVESTORS; NAMELY, THAT MARKETS THAT ARE BEHAVING LIKE THAT ARE HIGH RISK MARKETS. WITH THE HIGHER RETURNS THAT ARE PRESENTLY AVAILABLE, THERE ARE ALSO HIGH RISKS AND THE AMOUNT THAT CAN BE LOST CAN BE QUITE SIGNIFICANT.

THE SECOND MESSAGE IS TO ISSUERS: THAT THE COMMISSION STILL BELIEVES THAT THE ACCOUNTING STANDARDS APPLY, THAT THE DISCLOSURE RULES APPLY, WHETHER ON THE STOCK EXCHANGE OR IN THE WAY THAT THEY ARE DISCLOSING THE RESULTS OF A COMPANY TO THEIR INVESTORS AND SO ON. I SUPPOSE THE THIRD ISSUE THAT IT THROWS UP, WHICH AGAIN IS A CURRENT ISSUE, IS THE FUTURE OF REGULATION ITSELF OF THE MARKETS, WHEN I GATHER NOW SOMETHING LIKE 90 TO 95 PER CENT OF THE WORLD'S PROMINENT FINANCIAL MARKETS EITHER HAVE DEMUTUALISED OR WILL DEMUTUALISE AND ARE IN THE PROCESS OF DEMUTUALISING RIGHT NOW. WHEN THE MARKETS ARE BEHAVING SO ROBUSTLY—TO USE THE MOST NEUTRAL WORD I CAN THINK OF—HOW THE FUTURE OF REGULATION WILL WORK IN THAT ENVIRONMENT WILL BE A CHALLENGE FOR THE FUTURE.

CHAIR—Thanks very much. Do we have any questions?

Senator CONROY—On page 9 you make the statement:

The extra funding we received this year of some $18 million was for our new work only. Achieving timely enforcement has put unacceptable pressure on our staff, to which they have responded very well. But we may now have too few staff on the ground to achieve the outcomes we and the government want.

That is a cry for help if ever I heard one.

Mr Cameron—Yes. I think the matter is now receiving attention, and we are talking to the government about it. To put the $18 million into perspective, some $6 million of that was, in a sense, establishment funding. It is not ongoing funding in a real sense, so the extra funding does not replace it. In any event, it is quarantined to be used on our new functions. So where the pressure is on us is in our traditional areas. The way in which we deal with case selection, which ones we take on, the extent to which we can pursue matters, is presently under pressure and we have therefore drawn that to the attention of the government in connection with the current budget.

Senator CONROY—So $6 million of the $18 million was establishment costs. That leaves $12 million, presumably, for your new duties. What were your new duties?

Mr Cameron—It is the consumer protection market integrity role for banks and other deposit takers—insurance, superannuation and the full range of consumer protection. And part of that money is itself quarantined for the Superannuation Complaints Tribunal—just under $2 million of it.

Senator CONROY—You inherited those functions from other organisations, the IAC as it was. How much is a direct transfer of money from what was their old budget to yours? When you say you have received new functions and new funding, it is not really new functions and new funding in a public finance sense?

Mr Cameron—You are quite right.

Senator CONROY—It is just money that has been transferred across from one line item into a different line item. What I am trying to get at is how much extra funding you have actually received.

Mr Cameron—If I may, I will put your question another way: how much extra money has gone to those functions on top of what was previously spent by the former regulators? If my recollection serves me right, on a continuing basis it is virtually the same funding. No, that is not quite right: there is an increase in the consumer protection area. The dollar number, which I think is about $2.5 million, was a boost in consumer protection spending quite deliberately. But otherwise it is the same core expenditure on deposit taking, insurance and superannuation. The boost was in consumer protection, and the Superannuation Complaints Tribunal number was actually lower than the previous expenditure because at that time the jurisdiction of that tribunal had not been resolved.

Senator CONROY—You inherited MiB at the same time, didn't you?

Mr Cameron—Yes.

Senator CONROY—With no extra funds really attached to it, from the sound of it?

Mr Cameron—Yes. There were some extra funds attached to managed investments.

Senator CONROY—Establishment funds or ongoing?

Mr Cameron—Yes. It is all establishment funds because it expires at the end of this year. So to go back a little, the Managed Investments Act started at the same time as the other functions, so part of that is actually managed investments as well. It is all in the $18 million. But the boost funding was only for two years for managed investments. The final bid of managed investments is a quarter of a million dollars in the next financial year pending this committee's and the government's review of the operation of the Managed Investments Act. That is the present budgetary position.

Senator CONROY—I think I asked you in a different form how much Yannon cost, and I think you were going to come back to me.

Mr Cameron—We have. I have written to—I have forgotten the name of the gentleman—but the secretary of the committee.

Senator CONROY—Yes, the secretary of the committee. I just have not seen it yet.

Mr Cameron—I should say, though, that I only did that recently.

Mr Longo—I am not sure that it has left, because if you sent it to me to send—

Mr Cameron—No, I have sent it. It would have only been about a week ago, so I am not surprised if you have not got it yet.

Senator CONROY—Is it a secret?

Mr Cameron—No. It is about $4.9 million.

Senator CONROY—So $4.9 million.

Mr Cameron—You will see from the letter, it is not a precise science, so it is $4.9 million, around about that number.

Senator CONROY—We have had an exchange of correspondence recently, as I am sure you are both aware, to do with National Textiles. I am still trying, in my mind, to gain an understanding of what is the basis on which ASIC can make a decision to inform the government of its investigations. Do you inform the government of every investigation? Do you inform the government of no investigations? And what criteria does ASIC use to determine whether or not it will tell the government about an ongoing investigation?

Mr Cameron—On the point that you are discussing, I was still involved. So even though I cannot really talk about National Textiles—the investigation—I can certainly talk about—

Senator CONROY—That is why I am trying to extrapolate into a generality.

Mr Cameron—I understand. But on the question of informing the government, the question was raised with the commission on the morning that the Prime Minister made an announcement—but prior to him doing so—whether the commission was conducting an investigation. I made some inquiries internally and, as a result of that, answered the question that the commission had decided that there would be an investigation.

Senator CONROY—Reports in the newspapers indicated that at a cabinet meeting earlier than the Prime Minister's announcement that the cabinet had been informed that there was—if I can use, without wanting to get too pedantic and technical about the words—an informal inquiry taking place, and that that was four or five days in advance of the Prime Minister's announcement.

Mr Cameron—It had been publicised in the press. So it would not be surprising, although I do not know it, if cabinet were told that. It was in the press very soon after National Textiles started acquiring some public attention. There were media reports sourced to the commission correctly that confirmed that we were looking at it— the sort of informal inquiry that you are suggesting.

Senator CONROY—I am still trying to establish a criterion. If the Prime Minister or the Treasurer or Mr Hockey phones up and says, 'Are you investigating X?' do you automatically give them an answer—'yes', 'no' or 'I will come back to you shortly'?

Mr Cameron—I do not think there was ever any—

Senator CONROY—If I phoned you up and said, 'Are you investigating this?' you would of course say, 'I cannot really confirm or deny.'

Mr Cameron—It would depend on what it was. In very many cases we could and we would confirm that we were. It would depend upon the circumstances. In all of the circumstances involving National Textiles, we thought it was entirely appropriate to confirm that we were doing so. I am not sure whether we knew precisely, but we certainly knew very soon that the

Prime Minister was proposing to make an announcement in which that would be a factor which he would be expected to know, and we did not see any reason not to confirm it.

Senator CONROY—So back to the criteria. Do you have any criteria on which you would determine, 'This is a case we think we should inform the government about'?

Mr Cameron—The decision whether to release any information is covered by section 127 of the act and the government fits within it.

Senator CONROY—I am not questioning your legal right to actually inform the government. I am seeking to determine what it is that makes you decide—

Mr Longo—I think the investigations are not in any special category. So far as briefing the minister is concerned, the minister is entitled to be briefed in connection with the discharge of all of our functions and responsibilities, which of course include circumstances which involve investigations or enforcement of the legislation. There are no criteria which govern that. It is really on an 'as needs' basis. People would expect us to be briefing the government in an appropriate way as often as required to ensure that the government has confidence in what we are doing. Occasionally, there will be circumstances in which we may tell the government what is happening to ensure that the government can discharge its responsibilities within the framework that we are all operating under. There are no criteria. It is really a question of what is appropriate in the circumstances, but those communications are expressly contemplated and authorised by the act, as you would expect.

Senator CONROY—So if the Prime Minister phoned up and said, 'Are you investigating my brother?' would you give him an answer?

Mr Cameron—It might well depend upon whether it would do any damage to the investigation to answer the question in exactly the same way as you might. Some investigations we conduct remain secret so that they are not affected. There was no such issue in this case. It was not like a markets episode. It was a matter concerning an insolvency which was already public knowledge. The fact that we were conducting informal inquiries was already known, so the degree of added information you get by knowing that we have caused it to become a formal investigation is not all that great anyway.

Senator CONROY—So what if the Treasurer phoned up tomorrow and said, 'Are you investigating my brother?'

Mr Cameron—I think in the normal course I would say, 'I will have to think about that.' I would not have any idea what he was talking about without making inquiries. Depending upon what I found out, I might say, 'I cannot possibly answer that question' or 'The answer is that I can confirm that your brother is being investigated and that means we need to set in place some alternative reporting mechanism.'

Senator CONROY—That is where I am trying to get to: when you make the decision that it is inappropriate to give an answer.

Mr Cameron—If the question was entirely out of the blue, it would be a bit difficult to answer it. But in this particular case of course it was not. We were well aware of National Textiles at the time that the discussions occurred and indeed we were conducting informal inquiries which were about to become formal. There was no great issue about it then. In a sense, we saw then, and I would see now, no difficulty in simply answering the question for the sake of appropriate public administration.

Senator CONROY—I guess I probably just take a slightly different view that if there is a clear potential conflict of interest—I said potential rather than actual—by seeking information that is not publicly available from a regulator—

Mr Cameron—We were very happy to make that information publicly—

Senator CONROY—But not when cabinet first discussed it. If you look at the time line, cabinet certainly knew ahead of the majority of the Australian public that you were conducting an investigation because they had a discussion on it four or five days beforehand.

Mr Cameron—No, that is not so because the investigation had not been declared and cabinet was, as far as I am aware, not told that it had been.

Senator CONROY—I guess we get into the realms of having an argument or discussion about formal, informal and the like.

Mr Cameron—It is quite a significant difference to us.

Senator CONROY—I understand that, and I have always sought to try to make it clear and in my question I am just trying to determine when it is. I probably take the view that it was inappropriate for them to phone and ask you the question, rather than for you to supply the answer, which is not something for you to comment on. I am just trying to gain an understanding, if a similar set of circumstances arose, of when you would find alternative reporting mechanisms.

Mr Cameron—Perhaps I should say, without wanting to go into any detail, that I was not reporting it to anybody who was involved in the conflict of interest, so I am not sure that there was an issue there. It was still being reported on the standard reporting.

Senator CONROY—'I will get my best friend, the Treasurer, to give you a ring'—as I said, it is probably inappropriate for them to have made the call rather than—

Mr Cameron—But sometimes a problem is best solved by not communicating it as in this: if the investigation was about a markets matter, the very existence of which was still confidential, then we would probably not have confirmed the existence of the investigation to anybody. This was a matter where, if anything, the public interest was best served by confirming the nature of the investigation as early as possible.

Senator CONROY—No, it was in the Prime Minister's interest to have it confirmed—that is, the nature of the investigation—and he used it in an inappropriate way to misrepresent what you were actually doing, if you read his comments in the press. In fact, he went as far as to say,

'There is no breach and just because they're investigating doesn't mean there has been a breach,' which is, in actual fact, not the case. I am presuming by now someone has explained corporate law to him and the powers that you have, and I am sure you probably drew to his attention fairly quickly that his statement was factually wrong.

Mr Cameron—I do not think I can really comment on that question.

Senator CONROY—Are you aware the Prime Minister, in his press conference, stated that, just because ASIC were looking at this case in a formal sense, that did not mean that they suspected any breaches of the law—which in actual fact is contrary to your act? Your act says you only go to that next level if you believe there is a suspected breach, and the Prime Minister was saying on that day that there was not one.

Mr Cameron—I think your description of the circumstances in which we declare an investigation is right; we clearly have to suspect someone of a breach of some provision of the law or we do not declare a formal investigation.

Senator CONROY—I am just saying that I presume you corrected the Prime Minister at the earliest opportunity about his understanding of the Corporations Law and in particular your act. But, as you said, you would rather not comment.

Mr Cameron—I would not.

Senator CONROY—Turning to page 32, about the relationship between ASIC and the ASX, would you expand on the statement about having raised 'a number of issues such as the potential for conflicts of interest, investor protection and the continued operation of fair, efficient and transparent markets'? There are some fairly important issues that you have flagged there. I am wondering if you could expand on your concerns.

Mr Cameron—Yes, I suppose the first way to expand upon it is to mention the most recent example of the issue. On Monday of last week, ASX Ltd announced a joint venture with Perpetual Trustees Australia Ltd relating to a share registry operation. Perpetual Trustees Australia Ltd is itself a company listed on the Australian Stock Exchange and is therefore a company subject to the disclosure practices and the corporate governance practices and so on which are monitored by the ASX in the ordinary course of business, yet ASX is now in a close relationship with it. Some sort of strategic relationship has clearly been established between another listed company and ASX, and that probably will not be the last time that ASX enters into some such arrangement like that, which must affect its ability to regulate dispassionately. That really just shows that this issue will continue to arise. Just how it will be solved is less clear. I made the point earlier about the extent to which markets around the world are demutualising and throwing up this issue; we still remain in the vanguard of having the issue quite the way we have it because very few other exchanges, even those that have demutualised and privatised, have self-listed.

WE HAVE A PECULIAR AND EXTREME VERSION OF THE SITUATION THAT IS BECOMING MORE COMMON, AND WE ARE STILL UNSURE HOW THAT IS GOING TO PLAY OUT, WHAT THE RESOLUTION SHOULD BE. IT IS TO SOME EXTENT PICKED UP IN THE GOVERNMENT'S CORPORATE LAW ECONOMIC REFORM

PROGRAM PAPER NO. 6, BUT PAPER NO. 6 DOES NOT YET ANSWER IT. I READ INTO THAT THAT THE GOVERNMENT IS STILL THINKING ABOUT QUITE WHERE THIS SHOULD END UP. IT TALKS ABOUT THE POSSIBILITY OF AN INDEPENDENT BODY BEING SET UP TO TAKE OVER THE SUPERVISORY ROLE. THAT SEEMS TO ME TO BE A LIVE POSSIBILITY—THAT THERE WOULD BE ANOTHER BODY SET UP THAT PERHAPS MIGHT SUPERVISE OTHER EXCHANGES. INDEED, MR RICHARD HUMPHREY HAS SUGGESTED THAT THAT MIGHT BE AN OPTION. BUT WE ARE CONTRIBUTING TO THAT DEBATE BY TALKING TO THE STOCK EXCHANGE AND BY TALKING TO TREASURY, AND WE WILL BE DOING SO WITH RESPECT TO CLERP. AS TO HOW IT IS GOING TO PLAY OUT, I AM NOT SURE I CAN TAKE YOU ANY FURTHER IN TERMS OF AN ANSWER.

CAN I JUST SAY THAT THE COMMISSION HAS NEVER SET OUT TO TAKE ON THE DIRECT ROLE THAT THE STOCK EXCHANGE PRESENTLY HAS. THE REASON WE DO NOT WISH TO DO THAT IS WE THINK THE NECESSARY GOVERNMENT TYPE APPURTENANCES THAT APPLY TO US—IN TERMS OF THE FULL RIGOUR OF ADMINISTRATIVE LAW AND THE EXTENT TO WHICH OUR STAFF ARE PUBLIC SERVANTS AND ARE EXPECTED TO BEHAVE AS PUBLIC SERVANTS—IS NOT NECESSARILY CONSISTENT WITH THE MARKET SENSITIVE, QUICK ON THE FEET APPROACH THAT IS NEEDED TO BE AN EFFECTIVE MARKET REGULATOR. THE SAME ISSUE IS BEING DISCUSSED IN OTHER COUNTRIES, WITH A SIMILAR INABILITY TO REACH A QUICK DECISION. IT IS A VERY LIVE ISSUE AND ONE OF THE ISSUES WE WILL BE TALKING ABOUT AT THE IOSCO CONFERENCE IN MAY WITH OUR REGULATOR COUNTERPARTS AND THE EXCHANGES WHO WILL BE HERE.

Senator CONROY—I guess you have been having more success: I had a briefing from the ASX a little while ago where they told me that, as far as they were concerned, it was not a problem, and they did not anticipate any change. This concerned me. I am probably a little more enthusiastic about your problem than most. I do not think it is appropriate for them to be conducting the growing enforcement regulation role that they have, because there is now a clearly emerging conflict of interest.

Mr Cameron—I highlighted in my earlier remarks only the conflict that occurs directly with other listed companies that they happen to have a particular relationship with. You can argue that the conflict goes a bit wider than that simply in terms of the fact that, while it is clearly in their interest as a successful exchange trading for profit to remain credible and so on—and their regulatory strength is part of that—their willingness to accept new listings and the rigour of the approach they take to a new listing proposition, especially in the current climate, is nevertheless an example of the more general regulatory dilemma that they must face.

Senator CONROY—The question of them regulating a competitor is probably the most stark of the examples. While the SFE computer share one does not seem to be going anywhere at the moment, I would have some concerns that they could hardly regulate a competitor while the competitor is listed with them. It is a bizarre concept.

Mr Cameron—Yes. We have Newcastle coming along and Bendigo.

Senator CONROY—Yes, you can’t forget Bendigo!

Mr Cameron—We are just seeking submissions on Bendigo.

Senator CONROY—I was disappointed when I met with the ASX that I received such a blanket, ‘No, we think it’s fine, and we’ll be able to handle it,’ when you have stated publicly in your annual report that you think it is a problem.

Mr Cameron—We say that some changes may be needed to the way in which market supervision is structured, and I would still stand by that. I am not sure that I know quite yet how or when, but I would think there will be some change.

Senator GIBSON—Mr Cameron, first of all, congratulations on another clear annual report.

Mr Cameron—I hope it gets a gold award this time.

Senator GIBSON—On page 73, under ‘Abnormal items’, in the notes to the accounts under the 1998 financial year, you have $7.4 million.

Mr Cameron—Sorry, which page are you looking at?

Senator GIBSON—On page 73, in the notes to the accounts, I am referring to the ‘Abnormal items’ down the bottom. My query is about understanding where you are at with regard to lease space by the commission. The implication from those numbers is, and you do say there, that:

Further rationalisation of ASIC’s leases in 1998/99 will result in considerable reduction in cash outlays for leases in future years.

Has that rationalisation process reached an end?

Mr Cameron—Just about, in fact. You are sitting in part of it, because the rationalisation in Sydney involved leaving the premises at 135 King Street, and there will be a version of this note that picks up the same issues relating to that. But this is actually about the consolidation in particular in Melbourne, where we left the former premises in Bourke Street and consolidated completely into 485 La Trobe Street. That produces quite odd payments and receipts because we have been seeking to sublease the old premises on the way out. It was still cheaper to leave the premises behind, consolidate in La Trobe Street and then seek to dispose of the former premises. What you see here are the payments and the obligations working their way through the accounting system. You can thank the Urgent Issues Group for some of this because this is all required by an Urgent Issues Group determination, but it does produce some quite detailed accounting exercises.

Senator GIBSON—Yes. That is because of the dramatic reduction from the 1998 numbers to the 1999 numbers. I was just assuming that next year there would be none. Is that right?

Mr Cameron—No. It is still going down.

Senator GIBSON—It is still going down?

Mr Cameron—Yes. The commission, partly prodded by the effects of some of your decisions—

Senator GIBSON—Yes, I do recall.

Mr Cameron—has been changing its space requirements all over the place and that has produced these sorts of reductions.

Senator GIBSON—Going back to page 52, on your staffing, under the section 'Who works for us' you say that you have 36 contractors and 21 consultants—say, 50 to 60-odd, either under contract or as consultants. Is that growing or static? What is your expectation looking ahead to the next year or two?

Mr Cameron—That number is at 30 June 1999. The present staffing level is within 25 of that. It is around 1,250 and I would think it will stay at around that level.

Senator GIBSON—The proportion that are employed as contractors or as consultants was my particular question.

Mr Cameron—If that is going to remain the same?

Senator GIBSON—Yes.

Mr Cameron—As far as I am aware, it is going to remain at about the same level, yes. There are more AWAs and those sorts of newfangled employment arrangements around the place, but I do not think it has changed the balance between consultants and contractors and the rest of the commission staff.

Senator GIBSON—Okay. That is all.

CHAIR—Mr Cameron, are you familiar with an article in the shareholders magazine regarding—

Mr Cameron—Yes, I have just been reminded of it. I had read it in its early—

CHAIR—the Yannon decision. That article refers to some historical circumstances of the relationship between the DPP and the then ASC and it says—and I am paraphrasing it—that a conflict between the two organisations effectively gave the DPP a veto over civil actions in preference to pursuing criminal actions which the article, by Henry Bosch, argues has been detrimental to shareholders, that perhaps more would have been achieved by pursuing civil actions in general, I suppose, but particularly in the Yannon case. I wonder if you would like to comment on the content of the article and the substance of the argument that is put by Henry Bosch.

Mr Cameron—There are two things to say. The first is, of course, that since Mr Bosch's day we do have now a remedy called civil penalties. One of the interesting issues is how that civil penalties is being used. It is not being used as much as some people would like. But one of the changes that has occurred since 13 March—Mr Longo will correct me if I overstate this, but I think this is right—is that the civil penalty provisions that used to require the concurrence of the

DPP before they could be exercised no longer require the concurrence of the DPP. That is quite a significant change, but there are not a large number of them out there.

THE SECOND COMMENT I WOULD MAKE IS THAT, AS I SAID AT THE TIME THE YANNON DECISION WAS ANNOUNCED, WE WERE GOING TO REVIEW WITH THE DPP THE WAY IN WHICH THE INVESTIGATION HAD BEEN CONDUCTED TO ENSURE THAT ANY LESSONS THAT COULD BE LEARNT FOR THE FUTURE WERE LEARNT. WE HAVE STARTED DOING THAT PROCESS. I MUST SAY THAT I IMAGINE AS PART OF THAT PROCESS IT WOULD NOT BE A BAD IDEA IF WE WERE TO REVISIT THE QUESTION OF WHETHER THE DIRECTION IS GETTING IN THE WAY OF THE BEST WAY OF REGULATING OUR MARKETS. I AM NOT SURE THAT WE NOW BELIEVE THAT IT IS, BUT I CERTAINLY THINK IT COULD BE PART OF THAT REVIEW.

Mr Longo—The direction served a particular purpose at the time. As things are going, almost 10 years will have elapsed over the next period from the time the direction was made. A lot has happened since then and there may be some good structural reasons now to do away with it on the basis that it does not quite fit the post-Wallis environment. As Mr Cameron said, as part of the review we may very well consider whether there might be some joint recommendation or suggestion to government that there is really no need for that direction anymore.

Mr Cameron—The direction has also got a slightly odd aspect to it now in that, when it was given, the DPP and the then ASC were in the same federal portfolio. They have not been so since the Liberal government was elected in March 1996. Therefore, the fact that it is the Secretary of the Attorney-General's Department who sits as the chairman of the corporate wrongdoing steering committee is slightly odd now in a way that it was not odd when the direction was given. Therefore, it is yet another reason for thinking that events move on, and whether the direction is needed at all is a matter that does bear some reconsideration.

CHAIR—I want to ask some questions about ASIC policy statements. I note that in the report, one of the measures that you highlight as increased productivity is the fact that the number of policy statements issued last year increased from five to 14. Have you got an estimate as to how many additional policy statements might be issued in the forthcoming year?

Mr Cameron—What drove up the number of policy statements in that year was managed investments. It was necessary to issue a deal of policy statements to cover pure managed investments, and then the real estate and solicitors lending and so on aspects. I would have thought that the number this year is likely to revert to more usual lower levels in terms of fresh policy statements. On the other hand, the passage of the CLERP legislation, in particular the revamping of the takeovers panel and so on, meant that a whole lot of policy statements have needed to be reviewed, and are being reviewed, not only in the takeovers area but in the fundraising area. I would have thought the overall numbers will not be as high as they were in that year.

CHAIR—I understand policy statements do not have any statutory force. Is that correct?

Mr Cameron—Absolutely right.

CHAIR—What is your view therefore of the relevant legislation and a policy statement?

Mr Cameron—The policy statement's genesis, if you like, is part of the commission's mandate to ensure that the law is administered fairly and consistently across the whole country. In order to do that we need to ensure that our staff know the basis of the commission's expectations, how they will administer the law. My predecessor and the commission in the whole time I have been here have always believed that that meant that our policies should be published and very widely available so that the outside world would also know what they could expect of ASIC. But they rarely appear to take on the force of law. I suppose one of the few ways in which they do sometimes appear to do that is that they do tend to govern the approach even taken by the Administrative Appeals Tribunal to its consideration of ASIC decisions if they are challenged.

Mr Longo—I was about to make that point. The courts actually welcome decision making bodies publishing policy, provided that it is clear and lawful and that it is consistent with our statutory charter. The reasons for that include the reasons Mr Cameron has given, and it also promotes understanding and consistency in our own decision making. Also, the policy statements are a very good way of responding to changing market conditions. A recent one that has come to my attention, for example, is our policy on our licensing expectations for people who sell computer generated buy and sell signal software to the general public. That has become a real issue for us, so we have published policy about what the commission's expectations are about licensing requirements in that area, and that then becomes a bit of a template for giving people guidance about when we might want to sue them if they do not observe our licensing rules.

Mr Cameron—But if we did sue and the person we had sued thought that our view of the law as expressed in the policy statement was not right, the policy statement does not bind the court.

Mr Longo—That is right. The issue can still be tested.

Mr Cameron—Absolutely. The court could still throw out that case or vary what we were seeking to do, but it is designed to send a very clear message about how we have interpreted the law.

Mr Longo—Fundamentally, as a matter of fairness, people need to know what the regulator thinks about those issues, rather than be caught by surprise.

CHAIR—What is your view of the relationship between a policy statement and an industry code?

Mr Cameron—An industry code is generated by industry under some existing provisions, and even under a proposed provision in the CLERP 6 bill, it could be recognised by the regulator in some way. The difference is more to do with, first of all, where they come from and, secondly, what status they might have. The industry codes which we are at present regulating include the general insurance industry code, the banking code of conduct, and the electronic funds transfer code of conduct. We have inherited those from our predecessors and

we now administer those industry codes, and they actually have force between the participants. So, in that sense, they are different again from policy statements issued by ASIC.

Mr Longo—People are actually expected to comply with them.

CHAIR—What if there are instances where there is a difference on a substantive issue between an industry code and a policy statement?

Mr Cameron—I think we would be very careful to try to avoid that because that would cause real confusion. If an industry code said that people were supposed to behave in a particular way, I do not think ASIC should be issuing policy statements that were inconsistent without somehow negotiating with the industry. I am not aware that that has ever happened. If it has happened, I would be happy for you to tell me, but I am really not aware that that has ever happened.

CHAIR—What would occur if a particular organisation or an individual were to disregard the guidelines set out in a policy statement? Would, for instance, you reach the situation where you revoked a licence if there was failure to voluntarily comply with a policy statement?

Mr Cameron—If you took a situation where somebody was refused a licence because the commission's officers dealing with the matter had applied a commission policy as to how they were to do that, that decision can be challenged. Almost everything we do can be challenged in the Administrative Appeals Tribunal, so it could be challenged there or they could seek a review within the commission. If they challenged it in the Administrative Appeals Tribunal, the commission's policy statement would not technically bind the tribunal. If the tribunal found our policy statement to be absurd, unreasonable, inconsistent or unlawful, they would ignore it. Our decision could be challenged by judicial review on that basis as well. Our decisions are very open to challenge if people think that our policy statement or our individual decision is wrong.

CHAIR—Is there any reason for concern that policy statements that are fleshing out legislative provisions are, in effect, de facto rule making?

Mr Cameron—We are certainly conscious of that possibility, but we have very strange, wide-ranging powers. We have powers to grant licences, and we would need to specify the conditions upon which we do that, but in all sorts of areas of the law we have powers to exempt people from complying with the law or to modify the operation of the law. The Corporations Law is a slightly unusual beast. It actually assumes that the regulator will be doing the things that look awfully like rule making. I know the parliament does not necessarily like giving regulators rule making power, but we have in a sense negative rule making power. We cannot make positive rules, but we do have quite wide exempting and modifying powers.

CHAIR—One of the specific areas that has been raised with me is the life insurance industry and the policy statement of September 1999 issued in relation to competency levels required for life insurance agents. There is some concern from matters that have been referred to me that people who have been involved in the industry for 25 years without complaint will now have to go back and get these particular competencies or not continue in the industry. The question is who is going to make the assessments of the competencies. There is some suggestion that it

might be people who are actually less experienced and less qualified in terms of experience than they are.

Mr Cameron—It has been a difficult issue for some time.

CHAIR—The issue of grandfathering has been raised.

Mr Cameron—That is right. The commission has widely publicised and published its views on how that licensing policy should develop. The policy statement issued in September, which I must say I have not recently consulted, as I recall does say that we would not grandfather people in the industry forever. We would only give them two years or whatever—I think it was two years—to come up to the requirements, to prove in some fashion that they had the same level of competence. That was a very deliberate decision. It was widely signalled in advance. I was not aware that it was the subject of wide criticism either, and indeed I am not sure that it will not be overtaken by another event in the sense that I think CLERP 6 may well deal with similar issues.

CHAIR—It has been raised with me in the context of CLERP 6.

Mr Cameron—Yes. I think in a sense if CLERP 6 looks like being inconsistent with it, we would not impose the burden on the industry of complying immediately with our policy statement only to have it changed again by CLERP 6. My recollection is that we signalled that in September last year—that if CLERP 6 when published indicated that the government was intending to go in a different direction, we would not, in effect, stick with our policy if it caused people to have to change horses down the track. I am not sure that we have as yet come to a view as to whether when CLERP 6 is published it will mean that we will have to reconsider.

Senator CONROY—It is a bit hard to know when you only have part of the bill, not the regulations or the transitional provisions.

Mr Cameron—I am one of those people who have read the bill but not the explanatory memorandum, so I cannot actually answer your question. You may be ahead of me on that.

CHAIR—As I understand it, CLERP 6 is a fairly broad-brush approach. It just spells out that the licensees are responsible for training and—

Mr Cameron—I think in the transitional provisions you will see some reference to this issue. Senator Conroy may be ahead of both of us, but my recollection is that, in the transitional provisions, it is very close to what we were saying in September last year. Perhaps I could come back to you on that once I have checked.

CHAIR—I understand they are going to make a submission to the committee in their consideration of CLERP 6.

Mr Cameron—One of the issues that is particularly concerning us is the issue of transition between two regimes. We do need to make sure that works as painlessly as possible, I might say not only for industry but also for us since we will be running those licences.

CHAIR—Can you give me an update of the status of the draft code of conduct on electronic funds transfer? I raise this in the context of the provisions where we are going to require financial institutions to voluntarily put in place arrangements to give consumers up-front information on the fees charged by ATM transactions, which was then removed from the draft code.

Mr Cameron—It was removed from the draft code, as I detect you already know, because it had received a great deal of criticism from financial institutions, and the commission therefore took the view that it would be better to not jeopardise the progress of the code as a whole over one issue. What we have done is to convene a special forum simply to look at that issue. As I understand it, and I am open to correction, the convening of that forum has been reasonably well received, so consumer groups and industry can talk through what the implications are.

THE COMMISSION CERTAINLY HAS A PREFERENCE THAT THERE WOULD BE DISCLOSURE OF THOSE FEES. WE UNDERSTAND THAT WORKS IN OTHER JURISDICTIONS, AND IF A WAY CAN BE FOUND TO DO IT THAT IS NOT TOO EXPENSIVE OR TOO DIFFICULT OR FRANKLY IS NOT IMPOSSIBLE, HAVING REGARD TO THE WAY THE SYSTEMS WORK IN THIS COUNTRY, THEN OUR PREFERENCE I SUSPECT WOULD BE THAT IT HAPPEN. BUT THIS IS AN INDUSTRY CODE, AND THE INTENTION IS TO BRING INDUSTRY AS FAR AS WE CAN TO SOME SORT OF CONSENSUS ON THESE POINTS.

CHAIR—How do you resolve the situation where there is disagreement between the institutions in the industry? From discussions I have had, my understanding is that some of the banks are quite happy to accede to that proposal and others object to it.

Mr Cameron—We sometimes have to exercise political skills. If we have to exercise political skills we might come to the masters and get some advice. I am not sure. The simple answer is that we have not reached that point yet, but we certainly felt that we did not want it to become a sticking point on the rest of the code and it was better to concede that it was a new issue because it was not dealt with by the former code at all. Since we are trying to broaden the code away from purely electronic funds transfer to all forms of electronic payments and stored value cards and so on, there is so much upside in getting that done and in place that we did not want to jeopardise that for the sake of this disclosure issue. The tactical decision was to take it out and have a separate discussion about it. I know in some quarters you might have done the opposite: leave it in there and insist upon reaching the conclusion. We are not in a strong position to force industry to do what it really does not want to do, so we thought it was much better to seek to be collaborative and reach a decision by consensus.

CHAIR—Any further questions? Mr Cameron.

Mr ROSS CAMERON—Mr Cameron, do you know off the top of your head what the rough market capitalisation is of the Australian Stock Exchange?

Mr Cameron—My recollection is that at the moment it would be about $1.5 billion or $1.6 billion.

Mr ROSS CAMERON—Trillion?

Mr Cameron—No, $1.6 billion. I am sorry, I thought you meant ASX Ltd. You mean all companies listed.

Mr ROSS CAMERON—Yes.

Mr Cameron—It is close to about $550 billion to $600 billion.

Mr ROSS CAMERON— It is roughly the same size as gross domestic product.

Mr Cameron—That is right.

Mr ROSS CAMERON—On this question of disclosure, everywhere we seem to be lifting the level of disclosure required, whether it is investment advisers, directors or politicians. I want to look at the level of transparency in reporting, particularly in the print media, and the question of whether there is a gap in the disclosure regime. The Corporations Law requires financial journalists to maintain a register of interests. I spoke to a bloke who had worked as a financial journalist with a major Australian newspaper for 12 months until recently and I asked him if he was aware of the register. He said that someone had mentioned it to him. I asked him if he had any commercial interests. He said yes, he did have shares. I asked him if he recorded it. He said he did not. I asked him why and he said, 'Nobody really takes it that seriously. In fact the bloke who mentioned it to me said he was not sure if it still existed or not.' Who has a supervisory responsibility to ensure that those provisions of the Corporations Law are complied with, for example, by financial journalists?

Mr Cameron—I think the simple answer is us. No doubt the commission does, and from time to time the issue is raised. Events which I suspect I do not need to remind you about occurred in the second half of last year when media personalities and interests they may have had caused us and others to look at those sections again and be reminded as to their extent and limitations. But it is also fair to say that we have not taken the enforcement of those sections as a high day-to-day priority. You would have seen that market behaviour has changed significantly in the last couple of years with much greater disclosure by individual journalists in public of their holdings. For my part I think that is a very healthy sign. It is a very useful self-regulating mechanism that the press have put in place on their own account. In some ways it is a better mechanism than keeping a formal register that hardly anybody will ever study. In a sense it is a case where I am not quite sure whether we would see it as a high regulatory objective with our limited resources to undertake a particular surveillance activity of a private register—private in the sense that nobody ever looks at whether the registers are maintained and up to date.

Mr ROSS CAMERON—I understand the point you are making. For example, what it appears the ABA are finding, in their responsibilities for broadcasting, in not just their Sydney investigations but the five radio stations that they have investigated is that the self-regulatory environment is being observed much more in the breach than in any other way. They have said that, if they find the abuse is as widespread as it looks like being at the conclusion of their five investigations in several states, they may have to re-evaluate the efficacy of the self-regulatory environment.

THERE IS A CONSTITUTIONAL QUESTION ABOUT WHERE WE GET THE POWER TO REGULATE PRINT JOURNALISM OR TO EXAMINE PRINT JOURNALISM.

CORPORATIONS LAW PROVIDES THE HEAD OF POWER IN THIS PARTICULAR INSTANCE IN RELATION TO FINANCIAL JOURNALISTS. I AM NOT PRIMARILY CONCERNED ABOUT THE INTERESTS OF THE INDIVIDUAL REPORTERS. I NOTE, LIKE YOU, THIS POSITIVE TREND OF SELF-DISCLOSURE. BUT I ASKED THE QUESTION BEFORE ABOUT MARKET CAPITALISATION BECAUSE—I DO NOT KNOW WHAT TODAY'S SHARE PRICE SAYS—IN THE LAST TWO WEEKS NEWS LTD WAS AT ABOUT $111 BILLION, ROUGHLY ONE-FIFTH THE SIZE OF THE TOTAL MARKET. YOU HAVE A SITUATION WHERE, FOR EXAMPLE, YOU HAVE ONE COMPANY WHICH REPRESENTS 20 PER CENT OF THE EQUITY IN THE MARKET AND THAT ONE COMPANY ALSO CONTROLS A VERY SUBSTANTIAL CHUNK OF THE INSTRUMENTS OF PRINT COMMUNICATION IN THIS COUNTRY. I THINK IT IS 67 PER CENT OF ALL NATIONAL AND CAPITAL CITY DAILIES AND 76 PER CENT OF ALL SUNDAY PAPERS CONTROLLED BY THIS ONE COMPANY, WHICH ALSO HAS 20 PER CENT OF THE TOTAL MARKET VALUE OF THE ASX. IT SEEMS TO ME THAT THIS RAISES A MUCH WIDER QUESTION OF PUBLIC INTEREST THAN DECLARATIONS BY INDIVIDUAL JOURNALISTS. IT IS NOT NECESSARILY CONFINED TO FINANCIAL JOURNALISTS. THE QUESTION I AM LOOKING AT IS HOW, FOR EXAMPLE, DO NEWS LTD PAPERS REPORT ON NEW LTD'S FINANCIAL INTERESTS WHICH, BY DEFINITION OF THEIR SIZE, ARE INCREDIBLY LARGE AND DIVERSE. AT THE MOMENT, IT SEEMS TO ME, THERE IS ABSOLUTELY NO REGULATORY INTEREST IN THAT PUBLIC INTEREST QUESTION.

Senator CONROY—I can give a specific example to follow up on Ross. Qantas have been trying to say, on the quiet but getter louder, that there has been a whole string of sensationalised reports on their safety standards by News Ltd newspapers. Individual journalists may not own Qantas shares or Ansett shares, but the newspaper is the direct competitor of Qantas and is reporting on it.

Mr ROSS CAMERON—That is exactly the sort of issue—particularly when you have former editors of News Ltd papers who have pretty systematically chronicled the extent to which the paper orients itself towards enhancing the wider commercial interests of the empire without necessarily acting under specific direction or explicit memos from management.

FOR EXAMPLE, IN SYDNEY, DURING THE WHOLE PROSECUTION OF THE ARL SUPERLEAGUE CAMPAIGN, OVERWHELMING COVERAGE OF RUGBY LEAGUE WAS PROVIDED BY THE *DAILY TELEGRAPH*, A NEWS LTD ORGANISATION. FRANKLY, PLENTY OF BIG CHUNKS OF MY CONSTITUENTS IN PARRAMATTA WERE KIND OF DISORIENTED BY THE COVERAGE THEY WERE READING IN THE PRINCIPAL SOURCE OF MEDIA THEY CONSUMED, WHICH WAS THE *DAILY TELEGRAPH*, WHICH WAS CONSTANTLY SUPPORTING THE CREATION OF SUPERLEAGUE IN AN ATTACK ON THE INSTITUTION, FOR EXAMPLE, THE PARRAMATTA LEAGUES CLUB, THE PARRAMATTA FOOTBALL CLUB, WHICH WAS MY CONSTITUENTS' GREATEST COMMUNITY POSSESSION. THEY SAW IT BEING—IN THEIR MINDS, RIGHTLY OR WRONGLY—ATTACKED, BUT IT WAS NOT BEING DEFENDED IN ANY WAY IN THE NEWS MEDIA.

Senator CONROY—Channel 9's nightly news was giving as good as it was getting. *Media Watch* was a very entertaining watch for those few months.

Mr ROSS CAMERON—That is right. The easy target is the financial journo with a particular small fry, but I have not got a major concern with them—although I would be interested to know if any of the financial journalists are recording the fact that they are often

writing the annual reports on a contract basis for major companies that they are reporting on. That seems to have been taking place. Anecdotally, people are saying to me of the major companies: someone has got to write the report; they can do it themselves or they can pay a professional writer. They think, 'Well, where should we go to contract someone to do it?' A logical place to go is the financial journo from one of the major papers who you know, by definition, has got good writing skills and good knowledge of the industry. I would be interested to know what level of disclosure there is in the register of that sort of relationship.

BUT PUTTING THAT TO ONE SIDE, HOW DO WE ADDRESS THIS PUBLIC INTEREST QUESTION OF THIS ABSOLUTE MONOLITH IN THE MARKET CONTROLLING FLOWS OF NEWS, CURRENT AFFAIRS AND REPORTING IN EVERY AUSTRALIAN CAPITAL CITY, WITH 76 PER CENT OF THE SUNDAY PAPER CIRCULATION AND A BIG CHUNK OF THE REGIONAL NEWSPAPERS?

Mr Cameron—That is quite a difficult question to put to a humble corporate regulator.

Senator CONROY—Welcome to the supporters of media diversity.

Mr Cameron—I think it is too hard for me to get into some of the wider issues that your question carries with it. What I would like to do is reflect on some of the things that are specifically our responsibility, which do include the financial journalist's register, as the way the law is presently written. Secondly, I would like to think about the fact that we are the general regulator for false and misleading conduct in the whole of the financial sector. Not only are there specific offences in the Corporations Law dealing with making false and misleading statements to the exchange and so on, but there are provisions in what is now the ASIC law that deal with false and misleading conduct generally. So, in a sense, we have that responsibility and if we could find false and misleading conduct that needed to be dealt with then it would be our role to do it.

BUT A LOT OF THE WIDER ISSUES THAT YOU RAISE I THINK REALLY ARE OUTSIDE OUR PURVIEW. I WAS ACTUALLY TALKING ABOUT NEWS LTD'S PARTICULAR POSITION IN THE MARKET AT THE MOMENT IN A SPEECH YESTERDAY THAT HAS BEEN REPORTED TO SOME EXTENT. IN FACT, THE EXTENT OF THEIR PRESENT MARKET CAPITALISATION IS GENERATING EVEN MORE ACTIVITY BECAUSE, AS IS WELL KNOWN, THEIR FUND MANAGERS SEEM TO HAVE BEEN LEFT BEHIND AND ARE NOW HAVING TO BUY INTO NEWS LTD IN ORDER TO KEEP UP WITH THE INDEX. THAT BEHAVIOUR IS NOTHING TO DO WITH NEWS LTD ITSELF, INCIDENTALLY, BUT IT IS CERTAINLY CAUSING US TO BE AWARE OF NEWS LTD'S PARTICULAR POSITION IN OUR MARKET AT THE MOMENT. BUT, APART FROM THAT, I THINK I PROBABLY WOULD WANT TO PASS ON MOST OF THE REST OF THAT QUESTION BECAUSE IT REALLY GOES A BIT BEYOND THE WAY IN WHICH OUR ROLE PRESENTLY EXISTS.

Senator CONROY—You could be on the front page of the Murdoch newspapers tomorrow, Alan.

Mr ROSS CAMERON—So the answer to that, then, is there is no regulator of that? There is no-one taking supervisory responsibility for that wider public interest question?

Mr Cameron—I think I now understand more clearly why you started your question talking about the print media. If we were talking about the broadcast media, clearly it would be the

Australian Broadcasting Authority. I would not think that the circumstances you have described bring the way in which the press is behaving generally within our purview. Can I go back in time to what you might think to some extent is an earlier version of the phenomenon about Superleague and so on that you were describing. When the News Corporation itself had a proposal for what were called super-voting shares, the press treatment of the super-voting shares issue might have raised some of the same questions because, clearly, media companies had a particular interest in the super-voting shares proposal. Whether through *Media Watch* or something else, the issue was pretty well known to those who needed to know that the media clearly had interests in that issue. I am not sure what else I can add.

Mr RUDD—To return to a theme we had briefly this morning, I have a short question but it may have a complex answer. In the view of ASIC and its commissioners, where does your accountability lie? Is it simultaneously and equally to the minister and the parliament or not? What combination does it take?

Mr Cameron—As you predicted, it is a complex question because, clearly, in the traditional Westminster system of government, the minister is accountable to the parliament. We are in a peculiar position because we report directly to the committee and we report to the minister, but we are accountable to the minister at the end of the day. The minister takes ministerial responsibility for our actions—I might say, not for our beliefs or our thoughts but for our actions. It is in that sense that, after you raised it this morning, I was reminded to look to see how it is described in the report, and the report, which is obviously a general document, talks about us reporting to both. It is true that we are accountable primarily to the minister. It is the minister, and only the minister, who can give us directions. When the minister does that—and I might say that it has happened only once in the life of the commission—it is tabled in the parliament for you to see. The direction we were discussing earlier is that only instance. I accept that that is not a straightforward answer, because ministerial responsibility was a concept that was developed well ahead of there being independent statutory regulators. They are a comparatively recent phenomenon.

Mr RUDD—Page 20 of your report uses the term ‘explicitly accountable’. In the opening flap of your report you describe more clinically and in a more narrow fashion the fact that you report to both the Commonwealth parliament directly, which is a reference, I presume, to the mechanism of this committee, and the Treasurer. That uses the ‘report’ verb, and on page 20 you actually use the term ‘accountable’.

Mr Cameron—Yes. I was looking right at the top of page 20, where it says:

... an independent body directed by three full-time Commissioners. We are accountable to Parliament, and the Parliamentary Joint Committee on Corporations and Securities reviews our activities

Mr RUDD—So you see yourselves in that sense as being equally accountable to the minister and to us.

Mr Cameron—We are accountable to you in the sense that you can and do question us and we do seek to answer your questions. We are accountable in that sense. But at the end of the day it is the minister, under the law, to whom we report in that sense. I am sorry if I keep changing

the verbs, but the fundamental responsibility must be to the minister, but we account to you in the sense that we answer your questions.

Mr Longo—There is another meaning of the word ‘accountable’, and that is the broader one. When I talk about accountability in the administrative law area, we are accountable to courts and tribunals that might review our decisions or actions in that broader sense as well. We do not report to them but our actions may be scrutinised by those tribunals and courts as, indeed, this committee does occasionally in the discharge of its duties. The concept of accountability I take rather broadly in the sense that we are required to be open to explaining ourselves to all those bodies in ways that we are required to take seriously. But if you are talking about who has the legal power to require us to do something, I think that is in the hands of the minister. That is the environment in which we operate.

Mr RUDD—Against that logic, the committee could not require you to do anything.

Mr Cameron—No. I think that is right. If the committee were to publish a report that said it thought that ASIC should do something, it would not force us to do it. If the minister were to express the view that we should do something, it would not literally force us to do it either, but, unlike you, the minister could give us a direction to do it.

Mr Longo—I think that is absolutely correct. I would only add to that by saying that of course we have to answer your questions. That is part of accountability and, generally, those questions will be asked and answered in an environment like this—openly. It is only in special circumstances where it would happen in camera, for example.

Mr RUDD—So for us the power lies in one of interrogation inquisition. The minister has a parallel set of powers, but in addition to that he has a power of direction?

Mr Cameron—Yes, a statutory power of direction.

Mr RUDD—I am sorry if that all seemed a bit arcane, but I am relatively new to the committee and—

Mr Longo—It is well to be reminded.

Mr RUDD—I am always keen to get these things clear. On the staff question, which Senator Conroy referred to before—having been a bureaucrat myself for some years, I am aware that that is expressed in fairly stark language and most ministers to whom you would be accountable would be particularly focused by the directness of the language—and leaving quantities of staff to one side, in which areas of your operation are you feeling the pinch most at the moment, and where do you need the extra staff in your organisation now in order to discharge your functions properly?

Mr Cameron—The major areas of difficulty are in this city, because of the nature of the employment market here where professionals of the kind that we seek are in demand also for the very entities that we regulate. Therefore, our shortages are largely for people with investigative backgrounds, for lawyers and accountants, particularly accountants, who can add

value in our regulatory activities in this city and to a slightly lesser extent in Melbourne. It is not the same problem in the other cities as it is in Sydney in particular.

Mr RUDD—But to go back to my question, what aspect of your operations is that currently impeding?

Mr Cameron—I think it is probably having a pretty general—

Mr RUDD—I am only asking a question, I am not suggesting—

Mr Cameron—It is having a pretty general effect in the sense that accountants, for example, are important to us in the whole range of things that we do, not just in what looks like accounting, but in an investigation, whether it relates to insolvency, market behaviour or whatever, or whether a company has made full disclosure—you need accounting skills. We need good lawyers with forensic skills and we need investigators who are skilled at asking the right questions and dealing with the material they discover from documents.

Mr RUDD—Looking at page 27 of your annual report and the list of specific activities under 'Enforcement and regulation', your staff constraints at the moment would be in some way impeding your conduct of investigations—serious criminal litigation and civil enforcement actions?

Mr Cameron—Probably not affecting to anything like the same extent what I would call the mandatory activities that follow on that list—securities licence applications, insurance broker registrations and so on. It is much more to do with the regulatory activities of assessing documents and dealing with investigations, and principally in this city.

Mr RUDD—But the sharp edge stuff, which the investigators—

Mr Longo—It is very hard because it is a whole combination of circumstances. In the Sydney environment there is a huge volume of work, with regulatory issues coming through the door. None of it is easy; a lot of it is quite complex. And then there are systemic factors which exacerbate that. I think I should return to this whole Wakim and Hughes situation. I must have spent 80 per cent of my time in the last two or three weeks trying to help staff make decisions about the various problems that have arisen in matters all around the country but in particular in Sydney in relation to jurisdictional problems, requests for adjournments and collateral attacks foreshadowed or pending. There is always something of that nature floating through the place and the complexity of the work and the volume of it places a lot of pressure on staff.

Mr RUDD—I understand that the whole question of your powers and the appellate mechanisms are now thrown into flux by that particular judgment.

Mr Longo—But there is a cumulative effect. Wakim has been around now almost a year. I keep saying 'cumulative effect'. We had these concerns before the Hughes matter appeared. There is a cumulative effect.

Mr RUDD—I understand. I ran a state land tenure system during both Mabo and Wik so I have been through the changes inflicted upon regimes which had a certain predictability before.

In this sense, you face constant questions about the use of your resources—challenges—and I understand that. If you have had anything to do with state DPPs, which I have over the years working in the state of Queensland, constantly you have this problem: do you have enough resources to properly do your job? Or at the end of the day are you being compromised by the absence of your resources? I go back to the language you use in your report. Are you sensing that you are compromised in your ability to properly discharge your statutory functions by the current level of your resources?

Mr Cameron—It is interesting that you are so taken by the directness of the language. I like to think in many ways we are an unusual regulator in that we do try to be pretty frank about issues, especially in the annual report because it is directed not only to you but to the wider community. I think the answer is that I would not have used a word quite as strong as 'compromised'. I would use the language in here, that it is under strain. This was written, of course, before the full impact of Wakim was known. As Joe is indicating, that has added to the strain. But it is the volume of things that we are confronting at the moment, the necessity to deal with what I would loosely call the electronic issues. We participated in the last day or so in a worldwide Internet sweep relating to financial fraud. The results are not yet out. They will be out at the time of the conference in May. That is a major initiative and yet we cannot not do it. It is another thing that we have to do because so much of where the future is in electronics. So that is added on top of what we were doing before. As for the way the markets have changed, as we were discussing earlier, the Stock Exchange is a quite different beast. As a publicly listed company, it throws up new issues and we have to be prepared to deal with that and with Newcastle and with Bendigo, which I have not forgotten. So it is just simply that there are a whole lot of new issues on top of a whole lot of activity in what for a lot of people, if not for everyone in our community, is seen as a booming market.

Mr RUDD—It is a separation of the shareholder constituency; you now have a whole new bunch of clients.

Mr Cameron—Yes, more demutualisations, more privatisations, more less well-educated and less sophisticated investors so, in a sense, that is why we think that the regulatory system is certainly under some strain at the moment. We have drawn the attention of the government to that because we thought it was our job to do so.

Mr RUDD—My knowledge of the government's budgetary cycle is that you would have concluded your negotiations with the Treasury over the bucket of money you will get—you know where this question is going.

Mr Cameron—You will also know that I cannot answer it.

Mr RUDD—But you said we could ask you any question.

Mr Cameron—But we did not then go on to elaborate the qualifications to the responses to all those questions.

Mr RUDD—Okay. Rather than you giving me numbers, are you confident or not that the strain will be removed as a result of the next budgetary allocation?

Mr Cameron—I think it really would be presumptuous of me to answer that. Clearly, we wrote the report in the way that we did because we wanted to draw attention to the issue. It is a challenge that the commission raises a lot of money for the government through the Corporations Law fees, and the issue is to what extent that revenue should be, in effect, put back into the corporate regulatory scheme. There is an increasing amount of money being collected by our activities—by us—for the government. The question is this: to what extent does it stay in consolidated revenue or to what extent does it come back to the regulator?

Mr RUDD—I am not seeking to be cute in any of these questions. I actually believe that your regulatory function is critical. If you are looking at the broader constituency out there, there are those who would fall increasingly within our political constituency as well on the Centre Left of politics, given the democratisation of share ownership in the country. I am not just seeking to poke a blunt stick in the Treasurer's eye but I am concerned about whether you can do your job.

Mr Cameron—We are highly sensitive to the fact that we are the market integrity and consumer protector for anyone who has an insurance policy, for anybody who has an investment in a superannuation trust—and now that is almost everybody who works, I hope—and for anybody who has a bank account. We are highly sensitive to the democratic nature of our constituency. When our role changed on 1 July 1998, quite apart from the democratisation of shareholding, we became a much more broadly based regulator. While we did get additional funding for that, the overall cumulative effect of all of the developments we have just been discussing has been quite significant.

Mr Longo—There is even an impact on the so-called traditional functions. We are far more attuned to the consumer protection aspects of takeovers regulation, for example, and the consumer protection aspects. One would not have used that expression as recently as two years ago when dealing with online broking, for example. There are numerous issues.

Mr Cameron—Another example is online broking.

Mr RUDD—Which is exploding.

Mr Cameron—The sheer growth of direct—

Mr Longo—This morning's press was full of that. There are big issues there that we have talked about—that consumers or investors do not understand the service they are obtaining. There are issues about misleading and deceptive conduct. There are issues about disclosure of the commission. There are issues about the poor understanding by many people of market mechanisms and structures—that, when they wish to take advantage of, no doubt, laudable technological and market developments, they understand what they are doing and do not unnecessarily expose themselves to losses or risks which, with some proper education and understanding, could be avoided. They are all issues that the regulatory and enforcement aspects of the business are expected to be on top of.

Mr RUDD—I wish to conclude by commending ASIC on millennium bug insurance. That is quite clever, and I think it has been a very useful public exercise.

CHAIR—Any further questions?

Mr ROSS CAMERON—By way of clarification of my particular preoccupation at the moment—

Senator CONROY—Persecuting News Ltd.

Mr ROSS CAMERON—Encouraging transparency. For you, is the non-supervision of the reporting of the commercial activities of 20 per cent of the share market by that company's own instruments and organ because it does not fall within your brief or because of a lack of resources?

Mr Cameron—It is because it does not fall within our brief. When the episodes occurred last year involving the Sydney radio stations—to avoid dealing with the ones that you are more conscious of than I am; they are ones that are still continuing—we did have some discussions with the Broadcasting Authority because there were issues that looked like they might have got close to the finance journalists issue. As you might recall, there were a whole string of regulators, DPPs and so on whose interest may have been attracted by those events. But after a deal of consideration and discussion it became clear that the best way to characterise that issue was as an issue of broadcasting, even though there might peripherally have been some Corporations Law relevance.

Mr ROSS CAMERON—Sure, I am not concerned about radio.

Mr Cameron—I understand that. But if you now look at the print media, we would similarly characterise that as an issue about whether newspapers and magazines are behaving properly in their media activities. We would not see it principally as a matter that dealt with Corporations Law at all.

Mr ROSS CAMERON—So why does the requirement that print journalists disclose appear in the Corporations Law?

Mr Cameron—If I recall correctly, because in a previous boom the behaviour of the journalists attracted a deal of parliamentary attention. That section was added in there following the nickel booms, as I recall, of the late sixties and early seventies to deal with a particular evil that was perceived in the way in which the press got too close to the stocks they were supposed to be reporting on when they were, in fact, promoting them.

Mr Longo—I do not have Mr Cameron's knowledge, but I would hazard the suggestion that that provision really reflected the state of the media at that time. In other words, the print media was particularly influential and significant in the way in which we learn about market movements. In the year 2000 we have the Internet, multimedia and many other sources of information for that kind of information. In a sense, I am merely echoing the concern that presumably inspired your earlier question about the world having changed.

Mr Cameron—Which, in turn, has led us to say that people who purport to give advice on the Internet have to disclose their interests. We are trying to drive the behaviour in the new multimedia in that direction as well by analogy with the finance journalists type provision. But when you get back to the print media and your general comment about whether a particular organ in the print media might be pursuing its own other commercial agendas by the way it is

reporting stories that do not otherwise have a finance industry connection, that would strike me as an issue for the Press Council, for self-regulatory mechanisms like *Media Watch* and for politicians but not necessarily for us as corporate regulator.

Mr Longo—Indeed. The Internet is really such a vast subject. Increasing amounts of our resources are being required for us to focus, without resourcing every matter, on how we deal with disclosure practices on the Internet, chat sites and discussion fora.

Senator CONROY—Chat rooms must be a nightmare.

Mr Longo—Yes, and looking for ways of encouraging the larger businesses in those industries to, in effect, self-regulate. We are involved, for example, in trying to promote codes of practice with some of the Internet service providers. There is a lot of work going on intended to ensure that there is some prospect of information on the Net being reliable for people who rely on it. You have actually raised a very big subject.

Mr ROSS CAMERON—The obvious risk with the code of practice is that you put in a kind of a stalking horse. You create a straw man. The industry can say, 'We have our code of practice,' and when the ABA goes and investigates it, it finds, based on one company, 90 breaches.

Senator CONROY—Alan Jones denies that.

Mr ROSS CAMERON—I like Alan Jones. I think he is a good man. I think he makes a great contribution to Australian democracy.

Senator CONROY—Have another drink, Alan.

Mr ROSS CAMERON—Jones would say that he has never said anything that was actually contrary to what he believed.

Senator CONROY—He believes in Telstra today and Optus tomorrow.

Mr ROSS CAMERON—Yes, that is his defence. That is not the issue I am referring to. It is when you talk about governance and corporate law. I sometimes think we spend a great deal of time taking out the speck and we leave the log in there. We take the speck out of Jones's eye but leave the log. Sometimes you have one company which is worth $1 in every $5 in commercial activity taking place in this country and that company owns the only daily, as is the case in South Australia, Brisbane and in plenty of cities. You can say correctly that thankfully we have increasing diversity of sources of information. In the long run, that is obviously the hope. Frankly, I do not object as a matter of principle to, for example, a company's newspaper promoting its other commercial interests. I do not regard that as an offence against some sort of fundamental principle, as long as there is disclosure of the interest. It seems to me that at the moment there is a massive hole.

CHAIR—You are here to ask questions, not make speeches.

Mr ROSS CAMERON—Yes. What would you have done in the supervisory role in relation to financial journalists? I think you are saying that you have done nothing in the past 12 months.

Mr Cameron—I am not aware that we have engaged in a specific surveillance of those registers, partly because it has not come to our attention that there is any great regulatory risk there. I would not want to send the message that that means we never will. It is rather that at the moment we have not seen the need.

Mr Longo—It is an interesting suggestion. Next time I am talking to a finance journalist, I might actually raise that.

Mr Cameron—It might fall into the category of the sort of thing that we will not necessarily signal again.

Mr Longo—There will not be any policy statements on that.

Senator CONROY—I welcome Mr Cameron's interest in News Ltd's public policy positions and wish we had it 12 months ago, when they were an avid supporter of the GST. I will move on to executive remuneration. Last year you noted that there was not a lot of compliance with the new disclosure. Do you find the same problem this year? I have not seen them yet, but I was told nearly 12 months ago that the Urgent Issues Group were meant to be producing some guidelines themselves on definitions. I know you indicated that because there was—

Mr Cameron—It is the Accounting Standards Board that is going to do that rather than the Urgent Issues Group, if I recall correctly.

Senator CONROY—The Urgent Issues Group were initially looking at it.

Mr Cameron—Were they?

Senator CONROY—But that was 12 months ago. It may have been subsumed into the new Accounting Standards Board. There was argument about what was the definition of options and valuations and those sorts of things. I wondered whether you had reached any position on that yet, given that last time you said, 'Once we've reached an agreed position, we will be enforcing it.' I thought you were being generous to them then and I would be really surprised if you were still being that generous.

Mr Cameron—Senator, it comes back to your own committee's report, I think, because you issued your report in about October, dealing with this issue among other things. We were still looking; indeed, we have announced publicly that when we looked at the reports for the year ending 30 June 1999, we still found what we would regard as continuing non-compliance with what parliament intended. But the actual fixing of the law has not yet occurred. You have recommended, I think, in this report some provisions that would fix the problems to some extent, including correcting minor errors in the way the section is drafted. I really thought it was the board rather than the Urgent Issues Group that was going to come out with a valuation method. When that comes out, enforcement becomes a real option. At the moment, our only—

Senator CONROY—Are you suggesting you cannot enforce it at the moment?

Mr Cameron—Absolutely. I think we made it clear to the committee that we could not really enforce it until those provisions were made. We do continue to look at it—

Senator CONROY—You are the regulator.

Mr Cameron—But, as your committee recognised in its own report, the law has been drafted in such a way that, until some technical fixes were made, hard-edged enforcement was not really an option. Ms Segal discussed it with you, not me, but my understanding of what she said to you was that once the law was actually tidied in the way that was necessary—

Senator CONROY—There is nothing ambiguous in saying: we want to see the disclosure of the options and a zero value for them is not complying.

Mr Cameron—Which enforcement action do you take? If it is not possible to point to exactly what should have been done in compliance with that, then it is very difficult to enforce it, and that was the point that was made on the last occasion—

Senator CONROY—I did not notice in the legislation the passing of the power to determine a formula for valuation of options to the Accounting Standards Board. I appreciate they are doing some work on it and hopefully they will eventually get round to it. I must have missed the sentence that allowed you to delegate it to them.

Mr Cameron—We did not delegate it to them. As you might recall, we did say—I think I am right in saying that we did say—what we thought was the right way of valuing these things, but it was in one of those things we were discussing earlier. It was a practice note, a policy statement or something like that, which does not have the force of law. If people disagree with us, we were concerned, and remain concerned, that any attempt by us in a hard-edged sense to enforce those requirements would have come a cropper. On that basis, we felt we would wait. The committee has since published its report and the government will presumably deal with that and tidy the provisions that need to be tidied. When that is done, serious enforcement becomes an option. At the moment, the enforcement consists of monitoring it and drawing the attention of individual companies to what we think is non-compliance, but we have not taken on any particular company at this stage.

Senator CONROY—So if a company continues to say there is no cost to the company of an options package for an executive, you are telling me you are going to sit there and say, 'Yes, that's fair enough; that complies with the law'?

Mr Cameron—It is a question of what you do in terms of enforcement.

Mr Longo—Another way of making Mr Cameron's point is that a court based approach is not the optimal method or really a sensible method of figuring out what the appropriate methodology is for valuing options, because what you are really—

Senator CONROY—A what based method?

Mr Longo—A court based approach is not the way to figure out what the sensible methodology should be for valuing options. What then happens, if we were trying to run such a case, we would have to find some experts to tell the court what the methodology is and then we would have a battle of the experts in court. That would be, I think, a most unsatisfactory way of resolving a technical issue. From an enforcement point of view, it would be far more desirable and a far better use of public resources for the accounting setting people to first set what the principles are for governing this issue and then we may go away and enforce them. But certainly, courts are not the place to go to find out—

Senator CONROY—You might have noticed recently that they do not set the law. They just noticed it. After nearly two years since the legislation came into effect we still do not have companies complying with the spirit, the intent, or the stated position—

Mr Cameron—I am not sure that is fair. There is a fair degree of compliance, but there are too many instances of non-compliance.

Senator CONROY—I said some companies, I did not give a percentage. I am happy to say 10 per cent. I am also happy to say that having one company that is very large in its percentage of the capitalisation of the Australian Stock Exchange produce its figures in American dollars so that it could try to find a way to confuse the market and not provide adequate information is not helpful to the market. When people are able to do silly things like that and produce Lachlan Murdoch's salary in American dollars just to try to confuse the whole situation, it is not helping. I am sorry, I want to know what you are going to do to enforce the law. It is a really simple question.

CHAIR—We have recommended some changes to—

Senator CONROY—Yes, but tragically you are a committee chairman, not the government.

Mr Cameron—I thought the committee had recognised that there was an enforcement issue in terms of hard-edged enforcement, as opposed to drawing attention to the law and encouraging compliance. But in terms of hard-edged enforcement, until some of the fixes that this committee has recommended are in place, it would not only be very doubtful how successful we would be but also counterproductive in the sense that if the law is indeed going to change as you have recommended, then we would have wasted public money to establish something that was going to be changed again within, I assume, the next six to nine months. I do not know whether these changes will be implemented on 30 June 2000.

Senator CONROY—I am not sure which amendments that were suggested in this committee's report—whether it was the government member's report or my minority report—go to the question of the valuation of options packages.

Mr Cameron—I thought the committee's report did go to that question, unless I am mistakenly remembering. I do not know whether you want me to open the report and look at it now because I do not know whether I could find it quickly.

Senator CONROY—The government members finally came on board to support the amendments that we moved through parliament. Where they had previously opposed them extensively—

Mr Cameron—The chair is probably closer to this than I am.

CHAIR—We recommended that the accounting standard be given the force of law.

Mr Cameron—The accounting standard on this issue would have the force of law.

Senator CONROY—Which groundbreaking revelation was that to you? That is what happens now. They come up with a standard and providing parliament is happy with it, it passes it. That is not a groundbreaking recommendation of this committee, that is supporting the existing practice that happens.

Mr Cameron—I am looking at pages 156 and 157, which I assume are part of a majority report of the committee. Paragraph 1457 talks about the method of valuation and says:

The PJSB believes that one body should be responsible for developing the method of valuation and that body should be the Australian Accounting Standards Board (AASB).

The recommendation of 1459 is that sections 300 and 300A be amended as described above. That is 1456 and that territory. That is what I was assuming would be the outcome. I am not aware that the government has responded to this report yet. I am not quite sure what else I can say to assist you.

Senator CONROY—I am flabbergasted that you sit there and tell me you are doing nothing because five members of a parliamentary committee made a recommendation.

Mr Cameron—I do not think I am saying we are doing nothing. What we are saying is that we are not likely to take any company to court for non-compliance with a section, the drafting of which your committee, among others, has strongly criticised. Until that section is corrected it does not seem to be a sensible use of resources.

Senator CONROY—There was a report in yesterday’s *Australian* on which I am interested in getting your opinion. Brian Frith’s column indicated that there seemed to be some difference of opinion between the takeovers panel and ASIC on some elements of the takeover procedures. I was interested in that general comment. I was surprised to see that they got to have a view contrary to yours and I am interested to find out whether you were surprised to find that they were entitled to a contrary position.

CHAIR—I understand it was a beat-up.

Senator CONROY—I am hoping that is what we will be told.

Mr Cameron—I take the view that the takeovers panel is an alternative dispute resolution mechanism. It is there to resolve disputes in the takeovers context. The reason why it is not quite as straightforward as that, however, is that, when the commission takes a view in the

exercise of its general role of administering the takeovers law, our decisions are subject now to appeal to the panel, not to the Administrative Appeals Tribunal. The reason the issue is not quite as straightforward as it might otherwise appear to be is simply that in a sense, if they do take a different view about the policy from the view that we take, then they in a sense get the last word on any individual issue. Nevertheless, it is my view—and I have initiated a dialogue with the president of the panel and some of his members that will occur in the next few weeks—that the better view is that the commission remains the principal administrator of the Corporations Law, including the takeover sections, and their role is dispute resolution—

Senator CONROY—I would have thought the takeovers panel's powers were already questionable enough. As for them taking your powers as well, I would have thought they would have no chance of standing up under any corporations law. If that was the attitude they were going to take, I would have thought they would be in court very quickly and they would have less chance of surviving than in the existing situation..

Mr Cameron—In any event, I do think that the story might have exaggerated the extent of the issue. If you read the story closely—

Senator CONROY—I am more interested in the principle than that substantive issue. As you say, you are hoping that they will understand that you are the principal one.

Mr Cameron—I think that is still the case, yes, but, as I say, the position is a bit complicated by the fact that they sit as a review body of our decisions in that area in the way that the Administrative Appeals Tribunal used to. Notwithstanding that particular complication, I do not think that has changed the fundamental relationship and the fundamental role. I certainly would not want to give the impression that there is some deep problem between the commission and the panel; there is not, but you would expect there to be some teething issues as we settle in the new regime. That is as an example of a teething issue, as far as I am concerned, that we will sort out over the next few weeks and hopefully before there is any particular issue arising under it.

CHAIR—Are there any further questions? There being none, thank you, Mr Cameron and Mr Longo, for your appearance before the committee this afternoon. Alan, I understand that you still have a presentation.

Mr Cameron—If the committee still has time we were going to show you one. It is not necessary to leave the room to do it because we have arranged for it to happen here on that screen.

CHAIR—Can I ask how long the presentation is?

Mr Cameron—As long as you like; we could do it in five minutes or we could do it in a quarter of an hour.

Mr Rofe—Mr Chairman, before you leave, I was going to seek your leave to address the committee on some of the issues which have been raised this afternoon. I realise that time is running out now but I have expressed concern in the past that in the exercise of its statutory monitoring power under Section 243 of the ASIC Act, so far as I am aware the committee has held a number of hearings in 1995, 1996 and 1997 in relation to the annual report of the

commission, but the only people appearing before the committee have been officers of the commission

IT SEEMS TO ME THAT IT MIGHT BE APPROPRIATE ALSO TO SEEK THE VIEWS OF SOME OF ASIC'S CLIENTS IN RELATION TO THESE MATTERS. I JUST RAISE THAT ISSUE WITH YOU. I WROTE TO THE FORMER SECRETARY OF THE COMMITTEE IN JANUARY THIS YEAR ABOUT THIS. I DO NOT THINK I RECEIVED A REPLY. BUT THERE ARE CERTAINLY A NUMBER OF ITEMS WHICH HAVE BEEN RAISED TODAY WHICH I BELIEVE JUSTIFY COMMENTS BY EXTERNAL PARTIES.

CHAIR—Thanks for raising that issue, Mr Rofe. David would have been the secretary of the committee in January so—

Mr Rofe—It was not him I wrote to, it was Frank Nugent.

CHAIR—Then you have written to the wrong person. Frank Nugent has not been the secretary of this committee for sometime so that may be why the letter has gone astray. Perhaps if you could send a copy of that letter to the committee then we will consider the question you have raised and provide a response.

Committee adjourned at 3.56 p.m.