HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND PUBLIC ADMINISTRATION

Reference: Aspects of the national competition policy reform package

MELBOURNE

Thursday, 20 February 1997

OFFICIAL HANSARD REPORT

CANBERRA

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND PUBLIC ADMINISTRATION

Members:

Mr Hawker (Chair)

Mr Albanese	Mr McMullan
Mr Anthony	Mr Mutch
Mrs Bailey	Dr Nelson
Mr Causley	Mr Pyne
Mrs Gallus	Mr Willis
Mr Hockey	Mr Wilton
Mr Latham	

Matter referred to the Committee:

The aspects of the national competition policy reform package. The major issues the Committee has been requested to inquire into are:

(1) the appropriate means, including review processes, for applying the 'public interest' tests included in the Competition Principles Agreement:

These tests are a critical feature of this Agreement. They are described in Principle 1(3), which provides that:

without limiting the matters that may be taken into account, where this Agreement calls:

(a) for the benefits of a particular policy or course of action to be balanced against the costs of the policy or course of action; or

(b) for the merits or appropriateness of a particular policy or course of action to be determined; or

(c) for an assessment of the most effective means of achieving a policy objective;

the following matters shall, where relevant, be taken into account:

(d) government legislation and policies relating to ecologically sustainable development;

(e) social welfare and equity considerations, including community service obligations;

(f) government legislation and policies relating to matters such as occupational health and safety,

industrial relations and access and equity;

(g) economic and regional development, including employment and investment growth;

(h) the interests of consumers generally or of a class of consumers;

(i) the competitiveness of Australian businesses; and

(j) the efficient allocation of resources.

(2) the impact of competition policy reform on the efficient delivery of community service obligations including an assessment of:

(a) existing government policies relating to community service obligations and

(b) options for the delivery and funding of these services;

(3) the implications of competition policy reform for the efficient delivery of services by local government, including arrangements that have been developed between State Governments and local government authorities for the implementation of the Competition Principles Agreement.

WITNESSES

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND PUBLIC ADMINISTRATION

Aspects of the national competition policy reform package

MELBOURNE

Thursday, 20 February 1997

Present

Mr Hawker (Chair)

Mr Albanese	Mr Mutch
Mr Causley	Dr Southcott
Mrs Gallus	Mr Wilton
Mr Hockey	

The committee met at 9.37 a.m.

Mr Hawker took the chair.

OFFICER, Professor Robert Rupert, 6 Charnwood Road, St Kilda, Victoria 3182

CHAIR—I declare open this hearing of the House of Representatives Standing Committee on Financial Institutions and Public Administration inquiry into aspects of the national competition policy reform package. This is the fifth hearing that the committee has held since it commenced the inquiry late in 1996.

I welcome Professor Officer to today's public hearing.I remind you that the evidence you give at the public hearing today is considered to be part of the proceedings of parliament, and accordingly I advise you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. In what capacity are you appearing before the committee?

Prof. Officer—I appear as a private citizen. I presume I have been invited to appear before the committee because of my expertise in competition and competition policy.

CHAIR—That is a fair assumption. Would you like to make a brief statement?

Prof. Officer—Yes. I did send a paper, which has not been written for this inquiry, but I thought it was relevant. I am not sure to what extent you have been able to read that. The issues that that addresses go to the core of the terms of reference of the inquiry as I understand them. The role of government invokes questions about law and order, market failures and competition tests. In addition, public interest has an overriding role for government. Where marketplaces and the like cannot deliver the goods and services that government deems are necessary to be delivered, then clearly public interest has a role for government to interfere with the marketplace.

Competition is one of the most important ingredients of efficiency and effectiveness of markets. It is enshrined in various forms of legislation and reaffirmed in the COAG framework. At times people lose sight of what competition is really about. There are some who seem to think it is about rivalry per se, and it is not. Competition is not an end in itself. It is about allowing the more efficient, lowest cost producer providing goods at a lower cost than a more expensive producer, and a producer who has better quality goods and services being able to replace those who have lower quality or inferior goods.

It is also important in preventing producers becoming complacent and believing that they have a captured group of clients or consumers. The threat of entry, sometimes called contestability in economics, is an important ingredient for this striving for efficiency in production.

One of the points I make fairly strongly here which may be a little different from what other people have given in the way of evidence before your committee is the issue of what environment is needed for competition. Particularly in the context of the COAG framework, we are seeing a lot of government business enterprises and similar enterprises being brought under the umbrella of the competition test, which previously they were excluded under section 51 of the Trade Practices Act.

The test to some extent has been that these entities should have competitive neutrality and I certainly do not disagree with that. But I question whether you can get effective competitive neutrality in the current structures of many of these entities. I believe you need to adopt what has become known as the

purchaser/provider split in order to get the best benefits from these entities and, certainly, to get the full flowering of competition. I think there are a number of reasons for that. This is partly by way of experience, as I chaired a Victorian Commission of Audit and the National Commission. In this context, the experience I gained as chairman of the Victorian Commission of Audit was more relevant.

If you get government being too close to some of these entities involved in producing public services and the like, sometimes the more able ministers, quite frankly, have trouble separating their role of policy framer who invokes government policy from that of the manager. We have found down here quite frequently that they would get into what was essentially a management role and start defending the performance of their entity against full scrutiny of cabinet and other related bodies. That was when we had some real problems in some of these government enterprises.

If you can get a split, an independent board, it does not have to be a privatisation. That is one extreme. It can be simply corporatisation, which is less extreme perhaps, commercialisation, or it may be that you do not want the whole entity to be separated. You may simply outsource various aspects of its production and services. If you do that, you get a much clearer role of the responsibilities and obligations of those who are in the production side of things, the providers of services.

You get less pressure on politicians, particularly from lobbying groups and the like. Because of what I would call their low cost of coalition, it is easy for them to form a group, whereas it is much more expensive for the broader community to form groups and be represented. If a politician is subject to those sorts of pressures and you have the separation, if he makes changes to policy, it becomes a very public event and the rest of the community become properly informed about what is going on. Therefore, they have a better chance of having their say in changes. If you do not have this separation, you do not have these implicit—and sometimes explicit—contracts between the ministerial or department level and the producer level. You can get much more insidious change that may not, in many cases, be in the best interest of the community.

There are other issues also where you need separation. Government is often responsible for regulating certain industries and if they are part of the players and identified too much with members of the industry, the regulation suffers. It is not necessarily to the detriment of the industry I hasten to add. It is often to the detriment of the consumers.

I am reminded of when Australia had the old Commonwealth Oil Refineries. The regulation of prices according to people in the petroleum industry at that time was tremendous for them because they simply rode up under the umbrella of these higher prices that were necessary to sustain COR. We saw semblances of that when we had a two airlines policy. Getting separation means trying to keep the referee from being one of the players. In terms of structures, if you get a separation, you are much more able to design structures that are more amenable for the production process and service process.

Let me give you another example of the benefit of separation that I have given a lot around the country. Mostly in government - less so down here now - you have the standard form contracts and there is good reason for them, partly for control purposes, partly because of the strengths of unions and the like. They have been able to put in these very broad standard form contracts, but they often do not lead to the full benefits and costs of decision making and the full responsibilities falling back on the bureaucrats. Let me give

you this example. I was once, a long time ago, in the chief veterinary officer's department here in Victoria. He had a phone call from the Lions Club at Benalla—which for non-Victorians is a town up on the Hume Highway—and they had Wirth's Circus in town. They wanted to have an elephant race up the main street of Benalla with local identities on board. They were going to bet and raise money for the base hospital. Animal acts of that nature had to get the approval of a chief veterinary officer. He listened to this story and without a moment's hesitation, he said no. I would have to confess I was a junior officer in the Department of Agriculture at the time and this confirmed my opinion of him which was what junior officers normally have of their seniors. But with a bit of time and a bit of maturity I started reflecting on the nature of that decision and the cost. Imagine if an elephant had got out of control and trampled on a child. There would have been a witch-hunt and it would have gone right back to that chief veterinary officer. There is no question his career would not have been enhanced by the witch-hunt and the outcomes of it. If the race was successful and a few hundred pounds were raised for the Benalla Hospital, who would have given a thought to the chief veterinary officer.

The point I am making is that the costs and benefits that are borne by the fellow making the decision—the bureaucrat—are often very skewed relative to what the real costs and benefits are to the community. It leads to the sort of adage you find often talked about—half jokingly, half seriously—amongst public servants: a good day is the day when you have not had to make a decision on the grounds that if you make a decision and things go wrong, you get penalised; if they go right, no one really cares much and someone else takes the credit for it.

There are real problems I think without being able to design contracts and responsibilities according to performance, both the upside and the downside. It is typically because they do not get the upside which gives this, I think unfair, image of public servants as being unduly conservative, cautious and there to frustrate rather than help people. It is not the fault of the service, it is the fault of the structures. If you get that separation I think you have a much better chance of designing those structures that make those entities much more efficient and more competitive to the benefit of the community generally.

That is why I think you cannot simply say all we need to do in the context of this COAG framework is ensure that government entities are competitively neutral. I think it is very difficult to get competitive neutrality unless you get some separation from the political and strategic position of government from the producers. The book called *Reinventing Government* by Osborne and Gaebler called it separating the steering from the rowing.

It is not popular to bring up the context of New Zealand because we should be leading them and not the reverse but if you talk to some of those people that have experienced this type of thing—particularly ministers and the like—they say what it has forced them to do is to think. They suddenly find they have not got the sort of job they had originally. Because they are not involved in the day-to-day decision making of what was previously their department, it forces them back to think strategically, to get the overall picture which is really the true role of a minister with a mandate to perform. The minister is there to do the steering; they should not be in the boat pulling on the oars.It is too time consuming, apart from the fact that it tends to protect the entity against proper scrutiny from outsiders. I noticed amongst your terms of reference you have to invoke the public interest test. The points I am making go to what I call the first role of government and that is really law and order issues, correcting market failures, those types of technical—from an economist's

point of view—issues. The second reason for governments getting involved clearly concerns social objectives where the marketplace cannot deliver what governments think the community needs. This I think invokes the public interest test where you have this trade-off. We have always had it under the Trade Practices Act with the authorisation test, when, for example, under section 50 relating to takeovers and mergers, the question has got to be addressed whether the anti-competitive effect of a takeover is likely to be outweighed by public benefits on the other side. That is very much the public interest test.

In the new Part IIIA of the Trade Practices Act relating to essential facilities and infrastructure, there are public interest tests there. I have not examined that too closely but I would be surprised if the courts and others did not read it consistently with the other sections of the act. I think this public interest test is clearly important. I also think it is fairly important for governments, and in particular parliaments, to give some guidelines for the courts when they do invoke this test. It is not an easy task to weigh up what are efficiency issues against other issues that invoke broader public interest issues.

CHAIR—Thank you very much for that. I think that was an excellent presentation and I apologise to my colleagues who missed it. No doubt question time will elucidate some more points. Presumably you are well aware that Ian Causley has had experience as a minister and may well relate to some of the points that you made about the difficulties that ministers face. You talked about the difficulties of getting competitive neutrality under the current arrangements. From the point of view of the National Competition Council, how do you see their performance to date on establishing this? One of the concerns that has been expressed to the committee a couple of times is that there does seem to be a lot of focus on the procedures and not a lot on the outcomes.

Prof. Officer—I think it is a bit early to focus much on outcomes. From where I sit, things are progressing pretty well—a lot better than I think the public, and sometimes the press, realise. There is a lot of work being done by state governments. I was in Western Australia earlier in the week and they are doing a lot in this context. Clearly some of the states are having greater political problems in implementing this competitive neutrality than others because of what they see as the downside—typically employment issues. But by and large I am pretty optimistic of the way it is proceeding. I have got no doubt, when push comes to shove, that some states are going to find it difficult to get the competitive neutrality in because of the political downside. Of course, on the other side they have got that sweetener that the National Competition Council can allocate in terms of money. I do not think there will be much problem in getting the first tranche of that but subsequent tranches might be held back if there is too much resistance to the change. But from my perspective, it is going pretty well, but I would have to say I am not a part of the machinery that is set up to review that. I am going up this evening to talk to people from the New South Wales government about aspects of this. It involves general forums of public servants. I have talked about what I see as the principles and they have fed back how these principles are working or not working in their particular context. My overall impression is that people are proceeding at a reasonable pace on this.

Dr SOUTHCOTT—In your article you said you could see that some state governments would give in to political pressure, but they would still be quite happy to try to get the payments from the National Competition Council. How do you see that actually coming into practice?

Prof. Officer—I was perhaps a bit strong. I have softened that a bit. I think there are going to be

some areas, particularly some local government areas, where people are loathed to do the changes because of the perceptions of political down sides that there may be some restructuring and there may be, in the search for greater efficiency, some unemployment consequences.

You could always go to a public interest test to say that those consequences are too great relative to the efficiency benefit. Long before that I think there will be political pressures on some of these governments in some of these areas. I am not saying across all areas. I do not think any government has shown any sign of saying, 'Look, we now want to renege on the COAG framework.' I do not think anyone is saying that. There will inevitably be some tensions in this.

I talk in the paper a bit about the purchaser-provider split and I have illustrated some benefits. It is not all one way. There are what I have called agency costs. The further you separate the owner from the operator by way of agents or intermediaries, the greater the frictional costs will be. I have pointed out that you want to be conscious of these agency costs when you get this separation. That means that you cannot go out and say, 'We are going to privatise everything or everything has got to be outsourced or what have you.' You have to look at it carefully on a case by case basis.

I raise that in the context of your question. I did point out that you do not want to outsource or separate what are complementary goods and services. In the paper I talked about the fact that it is crazy to sell off your left shoe and retain the right shoe because it immediately makes both shoes valueless. The reverse of that is, which could be a danger also, where you might get a local council saying, 'We have got to meet the framework test, we will put everything out to tender. The only problem is you are going to have to tender for everything in one hit.'

The comparative advantage of the local council that is doing it all immediately is so great that it is unlikely that you will get an outsider who is able to deliver all those services and therefore they will refrain from tendering. It is the reverse of that complementarity argument. There will be those sorts of issues that will inevitably come up in the practical side of trying to invoke these competitive neutralities.

CHAIR—Professor Officer, I think you made the point in your opening remarks about the need for better education in the community. I think what you have just said is that it obviously includes the key decision makers at whatever level it is. Where do you see that being improved and whose role is it to improve that?

Prof. Officer—I suppose it is the role of all levels of government. I would have to say that I have been both publicly and privately a bit critical of the explanations that have gone on in this state at the time of some of their actions. I was pretty critical at the stage of the privatisation of electricity. I think real benefits were to be gained, but I do not think the populous at large thought that at all. I think the government did not give out the best of messages. In fact, for my sins I then got—

Mr CAUSLEY—It is not a negative story so the media will not run it.

Prof. Officer—I would have to agree with you.

Mr CAUSLEY—We had a similar problem in New South Wales with the efficiencies to be gained in electricity, not so much in the distribution but in the generation. There were some significant efficiencies gained, but the media did not want to know about that.

Prof. Officer—It is very hard to attract attention. What they did here in electricity was that they got four of us to do one-minute snaps of 'What are the advantages? Why is it going on?' I do not know how effective that was but it was too belated, in my opinion. You have really got to go out and sell these things a lot earlier. I suppose it becomes a bit like a crusade for some. I would have to say that I am probably guilty of that—I cannot resist going around trying to explain why I think there are advantages in changing the structure. People say, 'That is your political philosophy,' or what have you, but I do not think it is captured by any single political philosophy. If you look at what is happening around the world, you see that most governments, other than the autocracies, the military dictatorships—and even some of those are doing it—are trying to get this type of model up in varying degrees. It cuts across all forms of government.

I was in Vietnam last August. They are still unashamedly communist but they are putting in these types of models. You realise that when you get off the plane and find there is a tollway from the airport to Hanoi city. They are very interested in this sort of efficiency. This is why Singapore is attracting so much attention, not only here but particularly in Asia, because it is seen that we can, as a government, keep central control but at the same time get the benefits of a market economy.

My personal view is that you do not get the full benefits of a market economy under those sorts of structures unless there is, I think, economic freedom. Economic freedom is one of the important ingredients of this whole competition issue. But you can deliver a lot. You can look at the details, now that Deng has just died, of how the reforms—

Mr HOCKEY—Allegedly.

Prof. Officer—For the third or fourth time, probably! There has been enormous growth in China since they started to relieve some of those pressures, and I think that is not being missed by anyone. Even the most conservative regimes—conservative in the true sense of that word—are beginning to realise there are benefits in getting markets, and markets are about competition and the like.

Mr CAUSLEY—Could I take you back to the government. You mentioned the separation of entities and separating the policy from the management, et cetera. I dare say you have watched *Yes, Minister*.

Prof. Officer—Indeed, yes.

Mr CAUSLEY—I can assure you it is accurate. We probably have not got time this morning to explore all the nuances but one of the problems, I think, that you did not touch on is that once a minister signs off on something it is his, not the department's. You are responsible and you have to report to parliament on that particular issue accurately and honestly. Departments are well aware of that; bureaucrats are well aware of that and they try to palm most things off on to the minister. One of my comments used to be—cynically—that ministers were created to protect public servants.

One of the problems I found, coming down to a cost of government, I suppose, was the duplication

between the three tiers of government—federal, state and local—and the huge cost involved in that. I would like to think that I was one of the first people that spoke to Nick Greiner about this, before COAG was even thought of. There are some huge costs in Australia in that duplication, even to the extent that I advocated a global budget to the states. That would soon clear up some of the duplications.

The other problem that you have, though, is in the system itself, because cabinet is based on our law, I suppose, in that it is an adversarial system. Instead of the government setting policy and all of the departments carrying out that policy, you find that the ministers all go into cabinet and defend their departments. You were talking about the greater wisdom of cabinet, or whatever. You find that the very powerful departments are in there and instead of operating and instituting government policy, if they do not like it they are doing everything they can to stop it. Ministers disappear, governments disappear, and you will see the same policies that were put before you coming through. I see that as being a huge problem in our system, in trying to drive these policies through and to get the efficiencies.

Prof. Officer—I accept all you have said, and I am not saying that this is easy. To give you a sort of example, I am on a couple of boards here—Workcover, and one of the hospital network boards. We have tried, successfully in one instance and perhaps not so successfully in another, when there has been a problem—and in those two areas you will always have problems rearing every day—to make sure that it does not go back to the minister. We try and get our public relations, in the first instance, but ultimately our chief executive officer to address the media and the like on it, saying, 'Look, I am responsible for managing this, and it is not part of my contract to have this problem. We have got to solve it. It is not the minister who is handling it.'

In another instance, there was quite a lot of emotion attached to a change in some of the health staff. People immediately make a beeline to the minister and he felt he had to act—because ultimately he is responsible, of course. I think if we had had clearer contractual relationships we could have said, 'Hang on, we have got this responsibility. It is our decision and the opprobrium that you are copping, really we should take. If there is a real problem you are going to have change our contract, and that then goes back to the policy thing.'

Mr CAUSLEY—Is this the performance agreement between you?

Prof. Officer—Yes, that is right. It sounds easy. I am not pretending that—

Mr CAUSLEY—The performance agreements are valuable.

Prof. Officer—It is a start. As I said, on a couple of the boards I am on, particularly Workcover, we have been very successful. The minister has taken policy issues back to cabinet and fought those through very successfully for us, but it is less the day-to-day problems—the tales in some of these workers compensation problems, the people that sometimes slip through the cracks through no fault of theirs but because an imperfectly designed system. We have got to pick that up. We have got to take the criticism and the like for that. I think you get a better process, otherwise you get overreaction to what are often bureaucratic issues and a change in the structure again, which does impose a lot of costs.

I certainly agree with your comments about the general levels of government. We were not allowed to talk about taxes in the National Commission of Audit report, but I think one of the reasons we have got a lot of what I have called agency costs is this vertical fiscal imbalance between the states and the Commonwealth. You see it in health, where each side is accusing the other of pushing, off-loading costs onto the other, so you then have a series of vetting arrangements, which impose another layer of costs themselves, because there are not clear lines of responsibility. Our recommendations in that report on health were to try and get those lines much clearer. I do not think we are going in that direction, I would have to say, but I think it is an ongoing problem.

Mr ALBANESE—I refer to your paper, Professor, in particular your argument for the need for a purchaser/provider split. I guess that is an argument either for, on the one hand, corporatisation or for, on the other hand, a complete withdrawal of government from sectors where you argue that the market can provide competition.

Prof. Officer—Yes.

Mr ALBANESE—In terms of your analysis of the market, can it not be argued—given that we are not just economic beings but also social and political beings—that the involvement of government, and what is argued as political pressure by government, is in essence of form of market? Can it not be said that people exerting political pressure on us around this room or on ministers is, in fact, very much an integral part of an advanced society, in terms of people's ability to perform that pressure beyond simply their purchasing power or their economic activity? In reading your paper, that was my main concern with the direction which it takes.

How would you respond, for example, to the New South Wales experience? A minister who is responsible for a corporatised entity, it can be argued—for example in rail—no longer has an ability to provide services direction, which may be, through the political system, a rational course of action in terms of what demands people make.

Prof. Officer—I understand the point you are making. Let me just address it in the context of the paper. I said that there were two roles of government. On the social objectives, which I think is the issue you are talking about, clearly if a government has got a mandate it has got a right to interfere. What I am concerned with, where there is not transparency, where there are unclear directions, where particular groups can wield undue power simply because of the ignorance of the broader community, is what the costs and likely consequences are.

In the context of your example of providing a community service obligation to run a train down a track that would not be sustainable, I think that is clearly within the government mandate. My only point there is that, if you have got a contract implicitly with a rail authority to run trains efficiently, then within that contract you need to say—and I believe you do this—'In addition, we want to see the line between A and B maintained open. Moreover we will fund that to the tune of' whatever it might be.

Mr ALBANESE—But is not the danger in that model that you privatise the profitable exercises and socialise the costs, that what remains in public hands is the more expensive, unprofitable parts of the enterprise?

Prof. Officer—Let us meet that one head on. There is no question that, if we want to run an unprofitable line or run a mail service to outlying suburbs and country areas that is going to be unprofitable, the government is going to have to pick that up. What you are arguing is that we should cross-subsidise that from the more profitable inner city stuff. My point is: try and get the inner city as efficiently delivered as possible and then from general revenue—which will include whatever you have been able to extract by way of tender and the like, if you are putting these out—subsidise the delivery to these outer-lying areas.

The reason why I and most economists do not like cross-subsidies is that it does cause a lower level of efficiency for the same outcomes than if you specifically fund those community service obligations. It is difficult, politically.

Mr ALBANESE—Those same economists, of course, would argue against taxation increases, arguing in terms of decreasing the size of general revenue.

Prof. Officer—Economists do not have a role there, in my view. Our role is that if you give us the objectives we will try and tell you the most efficient way of getting there. If the objective is that we have got to have a mail delivery to Upotipotpon—that is a town up in northern Victoria—that would not be done under laissez faire market conditions but you have got mail elsewhere that is profitable, I see an economist's role as saying, 'Okay, that is the objective. You want mail to this outlying town and you want an efficient delivery service. What is the effective way to get those outcomes? What is the most efficient way?' The most efficient way is not to cross-subsidise one to the other; it is to make a separate funding of the CSO.

It is not often popular because, of course, CSOs are often associated with what might be called pork-barrelling and other—

Mr ALBANESE—The political market.

Prof. Officer—It is.

CHAIR—And more than that, I think Ian Causley's point is that they were always the target of certain departments—and we can all guess which one.

Prof. Officer—I think that is true. The community is better served if what is happening is made open and transparent. I am not naive enough to think it will ever be easy or that it will occur in all cases but I do think the community is better served if we know exactly what some of these things—

Mr CAUSLEY—It is transparent.

Prof. Officer—Yes, that is right.

Mrs GALLUS—What is the role of the government in looking after the environment?

Prof. Officer—There are a couple of issues there. There are what economists would call a lot of

externalities in environmental issues. If I fertilise my paddock, and the run-off pollutes a creek and causes an algal bloom or one thing or another, that really goes to this law and order establishment of property rights. A government has a property right, implicitly, I would argue, to keep that river or creek clean and here I am polluting their property right. They have got a right to say, 'You cannot put that level of fertiliser in. If you do put it in, you are going to have to put in certain safeguards to make sure it does not cause algal blooms in the waterways.'

This property right issue, I think, is very important and governments sometimes are loathe to invoke or use their property right. A good example is in the dual rolling out of optical cabling. From my understanding of it, any one of those cabling systems would have given us a multiple of the capacity we need for the foreseeable future. Instead, we have got this dual cabling, causing a lot of pollution, in the broader sense of that word. That is simply because the government did not say, 'Only one cable is necessary. We have got access issues here. We will allow someone to roll-out the cable but there is going to be clear accessibility to others to use that cable.'

Of course, we did not have part IIIA up and we had not proceeded far down the COAG role when that started to come about. But the point I am making is that I think a lot of those environmental issues can be solved within the framework I am talking about.

Mrs GALLUS—Would you put the cables under a social or a law and order?

Prof. Officer—That is a law and order or property right issue.

Mrs GALLUS—The IC put out a report on land degradation in agriculture. Part of that report said that if you continue to use land with irrigation salinity, you can get a one per cent degradation in the land for a 0.09 per cent increase in crops. Therefore, it is worthwhile going ahead and using that degraded land or using the crops to further degrade the ground, irrespective of externalities—that is, what you are doing to your neighbour's land—or the fact that there may be ecological or biophysical conditions that would militate against it. What is your response to an IC report which indicates that sort of philosophy?

Mr CAUSLEY—Question the IC report, for a start.

Prof. Officer—Let us assume their numbers are right, which I would doubt.

Mrs GALLUS—I have the report here.

Prof. Officer—Let us assume they are right. There are two issues. Perhaps there are some externalities that have not been invoked—that is, that the community at large clearly has a much longer planning horizon than individuals, even though theirs might be multigenerational, it is still not typically as long as the community at large. As a consequence, the farmer's costs are not the same as the community's cost. Therefore, back to this property right issue, you could argue that because they are not bearing the full cost, you are going to impose some of these costs that they are imposing on the rest of the community. But let us even put that aside.

Assume that they did line up but the community said, 'We'—for whatever reason—'do not want this level of degradation.' I think the second role of government is to come in and simply say, 'You shall not do this.' That is clear and it would be absurd for me to try and argue that a government that has got a mandate to prevent should not be allowed to prevent it. Clearly they can.

Mrs GALLUS—Seeing I have raised the IC and competition policy, what do you think about the fact that we have a productivity commission which does numerous reports for the government each year? Would it not, under the competition policy, be more appropriate that those reports be tendered to the wider community rather than kept as the province of one particular organisation?

Prof. Officer—You are possibly right. I think it is a well-known piece of graffiti at the London School of Economics: why do we just have one monopoly commission? I see no reason why a productivity commission should not compete with others doing analysis. At the moment, in this state, they have a review into the Auditor-General. One of the issues being put up is whether part of their audit role should be tendered out more frequently. There are not too many things that are not subject, potentially, to a competition test.

That does not mean, as I indicated earlier, that they should necessarily be pushed out because there are these agency costs. There are some things that are better retained. You have to examine that on a case by case basis. I see no reason why a productivity commission should not tender for particular jobs for government along with Access Economics, if you like, or any other group.

Mr HOCKEY—How do you define corporatisation?

Prof. Officer—Basically, I would see it as a separate entity with an independent board. It does not have to necessarily be a separate legal entity but sometimes the company is limited by guarantee. It is basically putting that independent board as the wedge with—as I said, in the context of government business enterprises—a clear contractual relationship with the department and the minister.

Mr HOCKEY—If you are applying your theory—these are some words from your draft—that, on balance, government should not be involved, even as a corporatised entity, when there is adequate competition provided by the private sector providers, how does that sit with your rationale that it should not be a separate legal entity?

Prof. Officer—I am sorry, I did not say that. You have to put that in context. I am saying there that if there are these other roles of government, and there is no social objective, no law and order or market failure issue, why should government be involved at all. That is, in effect, taking a null hypothesis of no government and then seeing reasons why government should be involved.

The alternative approach would be to say that everything is in government and what will we devolve. This is perhaps a Chinese model. It is not clear, theoretically, that you would not finish up at the same point, if you had the same people making the judgments on what is best left in and what is best left out.

Mr HOCKEY—I suppose I am uncomfortable with the thought, and for me it is contrary to what you are arguing, that you should accept that corporatised entities cannot be separate legal entities.

Prof. Officer—I did not say that.

Mr HOCKEY—You just said that in your view a corporatised entity is not necessarily—

Prof. Officer—Not necessarily.

Mr HOCKEY—It is not on the same footing as other corporatised entities in the community.

Prof. Officer—Yes, I guess that is right.

Mr HOCKEY—Does it have the same reporting requirements? Does it have the same important fiduciary obligations?

Prof. Officer—That is fair and perhaps you are right. Perhaps you should make them a fully separate legal entity. As I said, the boards that I am on are not separate legal entities but they are, in a sense, corporatised in that they use the same audit systems. We are expected to make the same sorts of payments implicit unless they are explicitly waived—taxes and the like that would normally be paid by a corporate entity, except they will go back directly to the state government and, in addition, usually a dividend. You are saying that this would be better made more formal. I suppose I would have to say, yes, probably.

Mr HOCKEY—There is one fundamental problem with the argument that a corporatised entity does not necessarily have to be an incorporated entity. It comes down to the fact that, arguably, with a corporatised entity, which is not subject to the Corporation's Law, the directors have no fiduciary obligations to act in the best interests of the company. In the case of your board membership, as you pointed out, your minister comes to you and says, 'I would like this to be done and that to be done. This would be wise and that would be wise.' You have no protection to act in the best interests of the company.

Prof. Officer—The form of protection would be more by way of the contractual relationship the board has with the minister and the department. If it were properly drawn, it would give the same sort of protection that a formal corporatised entity would.

Mr HOCKEY—You are not serious.

Prof. Officer—Fortunately, I am.

Mr HOCKEY—We are talking about politics and government here, and—

Prof. Officer—The point I am making is, if you have this contract—

Mr HOCKEY—There is one obvious example floating around at the moment.

Prof. Officer—There may be difficulties. I am loath to give a blanket coverage because, quite frankly, I have not thought about it enough at that level. There may be situations or circumstances where you may not want the full separate legal entity. I am not sure what they might be. I am covering myself from making a

profound statement that they should all be or not be, because I have not really explored the full bounds of either way.

Mr CAUSLEY—In those instances, the responsibility rests with the minister.

Mr HOCKEY—That is right. What I am getting is that one of the major problems with competition policy is that we have got impure definitions of what various entities are. It is one thing to argue for a competitive market, but the government or government owned entities will always entertain some advantages, for example, by implied guarantees—Telstra has no express guarantee and everyone treats it as a corporatised entity but if you go over to Europe and Telstra is there, it goes into the market and everyone knows the government stands behind it.

Prof. Officer—Yes, you are right.

Mr HOCKEY—To me, this is a fundamental flaw with the current modelling in competition policy.

Prof. Officer—Potentially. You are absolutely right with your example. It is an imperfect system, despite the fact that the government says, 'We are not going to stand behind the paper of', say, 'Telstra' or—as some governments have done—'We are going to load you up with the guarantee: that is, we will charge you 100 basis points on your paper for the guarantee.' Looking at the other side of it, you are getting that much more separation. Are there downsides? Repeating what I said before, I have not explored it enough to be confident in saying that absolutely everything should be in a separate legal form.

Mr HOCKEY—To add one further point, which comes from my experience in the New South Wales government: there is only one good reason why we would not set up a separate legal entity. That is, we would want to retain some control over the organisation. I suspect that is a common theme amongst governments. Because as soon as you have an independent board, subject to the corporations law as opposed to the whim of the minister, you lose your control and you are relegated to the status of a normal shareholder.

Prof. Officer—There may be issues there: you may want to retain some control because of the speed with which you can make adjustments and the like. Just so long as, if you do it by the contractual route, you make it public that you are changing the nature of the contract. But I accept the points you are making. Whenever you get this separation, you want to seriously consider what is the best form of separation. Other things being equal, yes, I would like to see it as pure as possible.

Mr MUTCH—I found your paper very refreshing. You say that some states would attempt to frustrate the progress of competition—

Prof. Officer—I have softened that a bit in the final draft.

Mr MUTCH—Have you?

Prof. Officer—Yes.

Mr MUTCH—I was hoping you might—

Prof. Officer—I said 'slow the pace'—

Mr MUTCH—I was hoping you might be more specific and name names and suggest to us ways in which recalcitrant states could be encouraged.

Prof. Officer—This comes from giving talks around the states. At times people say, 'We are having a bit of trouble in this area' or 'that area' As I said, I have not done any formal review and would be loath to give names. You people probably know much better than I which states are struggling with some of the areas at the moment.They are typically states that have got very narrow majorities and there is a political issue in a region or in an industry that makes them sensitive to change because of the frictional costs associated with the change. But in so far as I am implicitly under oath here I dare not pass on anecdotes in case the anecdotes are inaccurate.

Mr Mutch—Do you have any suggestions for implementing a greater regime of competition? How should we go about it?

Prof. Officer—As I said earlier, I think it is still a bit early to see how effective the National Competition Council's role in all of this is going to be, how effective the monetary rewards for those governments are going to be in encouraging it. But I have to say I am pretty confident given the pace I have seen to date. If I had been asked two years ago to forecast where we are today, I suspect I would have been more pessimistic about the changes that are going on.

It could reflect the fact that I am based in Victoria where there has been a lot of change. But it is fairly refreshing. I went to Western Australia earlier in the week and there is a lot of change there. I was in Tasmania last week, and there was not so much change, I would have to confess.

CHAIR—Just following up some of the points that Mr Hockey was making about corporatisation and so on, to get into a related area, would you like to comment on the role of statutory marketing bodies, particularly for exports?

Prof. Officer—You are talking to an ex-agricultural economist here so you would know that I am suspicious of statutory marketing bodies. I would have to tell you, it is a prejudice brought from years of being part of a farming generation—if we cannot blame the seasons it has got to be the fellows marketing our product.

Basically, I am suspicious of it without having gone out there and examined it. I just think it is difficult to get the innovation and the full benefits of marketing in such structures unless you are able, in effect, to create a monopoly in the world market. There is only one product with which we go anywhere near that and that is wool—and we did not succeed too well there because they misjudged the market enormously. In every other product we are price takers. I do not think those single statutory marketing boards have got

any comparative advantage in that environment.

CHAIR—What about in terms of holding a large monopoly on exports from Australia? Are there any benefits?

Prof. Officer—As I said, in so far as we are selling into a competitive market, I do not see it. If we had a monopoly, which we may in the context of wool, then maybe, but in the context of selling into a competitive market we are just one of the players, we cannot affect the market price, so I do not think those single marketing authorities have got a comparative advantage there.

Mr CAUSLEY—Who would be the buyers and the Carghills of this world?

Prof. Officer—You have got to remember that Carghills got in here because we stopped a merger of a number of meat companies through, in my view, a bad decision of the Federal Court on a trade practices matter, largely, I should think, as a result of growers' representations—and I think they were misguided representations. They did not look at the bigger picture.

All they could see was amalgamation of some Australian meat producers and they thought they would act as monopolists, not realising that there are economies of scale and them getting together to match and be competitive with the very much larger offshore entities. We have competition policy here and sometimes it can be too narrowly focused.

There is a real danger in that context that people are inclined to look at competition as the number of entities competing in it. It is not that; it clearly is not that. You cannot measure it by simple concentration ratios and the like. Then, you need judgment. I have been a strong advocate of trying to get a commercial court, because you get judges often sitting on these issues who have no understanding of the industry and the commercial aspects of it, and they are struggling.

Mr CAUSLEY—You frightened me as soon as you mentioned lawyers.

Prof. Officer—I have appeared in a number of these matters. At the end of the day, you can spend some time in the witness box—sometimes days. I have to tell you that I get through to students a lot quicker than I have been able to get through to the bench on occasions. It is because of the background of some of these judges. I am not being critical across the whole board, but I do think it is a mistake to believe that you can pull a judge out of the bar of, say, the Family Court and suddenly put him into a position of making a judgment on a major commercial matter, unless he has had some experience.

The adversary system tries to give him all points of view, but, at the end of the day, he has still got to balance. New Zealand has lay members in its High Court. A colleague of mine Maureen Brandt is a member of it. She is an Australian. She sits there as an economist. She is also on the National Competition Tribunal, the old Trade Practices Tribunal. She sits there giving them advice on these things. We could learn a bit from that. Again, I am in danger of invoking New Zealand as an example, and I have been told I should not do that.

CHAIR—We did not tell you that. Can I just come back to the question about statutory money. What about in the case where you are selling to a single buyer in some countries for example?

Prof. Officer—A bilateral monopoly thing?

CHAIR—Yes.

Prof. Officer—There may be an issue there, yes. Again, I am not pretending to be an expert in this. In fact, most of my knowledge is a result of 20 years ago when I was heavily involved in agriculture and stuff. Since then, apart from still having farming interests, I really have not spent much time on it. There may be better ways of restructuring those. As I said, I am suspicious of them, but you are not talking to someone who has a great deal of intimate knowledge of how they operate or who spends a lot of time thinking about how they operate. You would be better calling others who have spent more time on this and listening to them rather than me.

Mr CAUSLEY—On the other side of it, you have, in Japan, for instance, certain companies who are licensed by the government to import into the country and you are really dealing with a cartel.

Prof. Officer—Yes, this is the bilateral monopoly bit. From an economist's point of view, it starts going into game theory. There are so many different possible solutions, I would leave it to my more able young colleagues.

Mr CAUSLEY—Could I take you back to a comment you made earlier. You said that you thought it was probably too early to judge outcomes in the policy area. I put it to you that there are already results on the board from the policy. You say that some of them are exciting and they are achieving results.

I put to you that some of them are hurting at the present time. I could give you evidence where I do not believe that the consumer is getting any benefit from them, but others might be. Do you think we have become engrossed in theory here and we are not really looking at the outcomes? We are making some very big decisions that are going to be very hard to reverse, and, if, at the end of the day, they are wrong, they are going to hurt us.

Prof. Officer—Yes, I think I made this point in the paper. When you are planning these separations and the like, you want to plan your exit at the same time that you plan your entry—that is, if it is not working, you have to be able to work out how you get out. I have recently read part of the Ombudsman's report and the problems she referred to in out-sourcing. They were not totally unexpected. When you are going to new systems there are always going to be problems, but I do think people have probably not spent enough time thinking of what is the best way to design these contracts.

What happens if what we expect to happen does not occur? How can we redress the problems without expensive litigation? You put something out there and you have sold it and there are certain expectations—the price is high, capturing, perhaps, a lot of what are otherwise public benefits. You wake up at a later date, you cannot then, without compensation, pull it back. You want to think through a lot of those issues first.

One of the points I make is that you need to have an exit strategy before you ever go in. The more complex the exit strategy the more thought you will want to put into it before you enter it, so you are getting trained to strike some balance. If it is easy to get out of then you should not waste a lot of time worrying about getting into it. But if it is complex and expensive to get out of then I think you spend a lot of time designing and making sure that this is the appropriate way of going.

Mr CAUSLEY—Some of the decisions are having big effects on regional Australia. I put it to you that if we had had this policy in place at federation then 90 per cent of Australia would not have telecommunications or electricity.

Prof. Officer—I doubt that, but we could debate that at length. I think we would have all that. We may not have a Snowy Mountains authority—and we could debate at length whether we should have—

Mr CAUSLEY—Even in America today, under a similar system they had areas without reticulated electricity, and that is a country of 260 million people.

Prof. Officer—I am certainly not arguing that the government should not have a responsibility to see that electricity is in those areas if they deem it is necessary to have electricity. This goes to the second role of government, the social objective. The question is—

Mr CAUSLEY—I am pretty sure Sydney would love to pay for regional Australia. If you are looking at a market economy, you are saying to Sydney in effect—I suppose they are paying for it anyway—let it be transparent. But when it is transparent, I am pretty sure they would be selfish.

CHAIR—That is always the role of government, as has been mentioned.

Mr WILTON—Professor Quiggin was putting to us that after having busted almost every valve for many years now in pursuit of micro-economic reform, overall, it has achieved very little from a range of perspectives.

Prof. Officer—Very little? That is a direct quote, is it?

Mr WILTON—That is not a direct quote. That was certainly his contention.

Prof. Officer—I dispute that.

Mr WILTON—That was my question. What is your view on that?

Prof. Officer—I think we have achieved quite a lot. There is still a lot to go in terms of freeing up services, generally making them more competitive. I know Professor Quiggin is antagonistic to the process and often talks to particular cases where it has not worked. For every anecdote where it has not worked, we can give anecdotes where it has worked.

There was a study recently by Stephen Hodge in which he looked at 20,000 cases of outsourcing. When I say looked at them, I mean not personally. He reviewed studies that looked at them and finished up

with a comparative advantage he thought of about nine per cent to 14 per cent. I warn people in that context that you can drown in a river of two inches average depth. Do not be bluffed too much by averages. You have to look at the variance in this. If I am forced to make a statement about the benefits of micro-economic reform, I will say that, yes, they have been positive, but I would much rather address individual particular aspects of it.

If we look around the world, we will see that there was recently a report by the Fraser Institute of Canada which ranked countries in what they call a quantitative economic freedom index, which was basically how much governments are involved in the community activity. Over the period 1975 to 1995, I think, we were about middle ranking. Now we have a pretty high absolute level of economic freedom, but in terms of changes that are going on we are about middle ranking. I do not think this is a passing fad through the world. I think it is a reflection of what people are expecting of their governments and the limited resources governments have. Governments will have to be more efficient in their delivery, and this is the outcome of that.

Dr SOUTHCOTT—I just want to follow up on this point. Professor Quiggin said that he believed the estimates by Treasury and so on of the output gain that micro-economic reform had delivered were over exaggerated. He also cited one piece of evidence, which was that he felt that the growth speed limits for the Australian economy had not really changed over the last decade and were still somewhere about 3¼ per cent. What do you feel about that? Do you feel that there has been an output gain?

Prof. Officer—I do not think you will ever pick it up. Unless you are going from a China-type system where everything is clamped down to a much more open system, it is going to be more gradual. There are going to be so many factors. Let us not forget that we have copped it pretty heavily in terms of comparative advantage over the last decade or so, certainly in agriculture. We are fairly accustomed to that but, when the mining and resources start taking a dip also, these things totally swamp the net effect on aggregate outputs relative to a micro-economic form agenda.

It is easy to be critical of anyone who puts quantitative models up in numbers. It is being able to put up one that is not equally as vulnerable that is the difficult task. I have not got into the estimates of the Treasury, but I have got no doubt that I could probably find problems with them too. The challenge to people like Quiggin is, 'Put up your model and give us a look at it. You tell us why your estimates are superior to theirs.' Mostly you will find that there are the same sorts of problems. Models are to be used but are never to be believed in the context of social sciences. Economics is a social science.

Mr HOCKEY—Professor, the Adam Smith Institute in the United Kingdom estimates that the entire public service in the United Kingdom could be reduced to 10,000 people—including defence forces, police, et cetera—and in order to have that size public sector you really need two components. Firstly, a sophisticated private sector or competitive economy. Secondly—perhaps from a social perspective it is an equally important factor—a very good monitoring system on the performance of contractors, and so on.

How far away is the Australian public sector from having a sophisticated private sector that can basically pick up all the services a government provides, and how far away are governments from putting in adequate monitoring facilities?

Prof. Officer—It is horses for courses. I beg off these generalisations because, yes, I think in theory I could understand the Adam Smith Institute, but it is whether it works in practice, what are the problems? I think the theory, like the models, is there to guide you. But you look because so often if you can find an example that is working you will realise that it is a little more sophisticated and complex than the principles—the model or the theory—tells you. There are certain downsides to it. In theory I agree you can probably do that. We can probably outsource just about everything other than the military, and then you can argue, 'Well, we could have mercenaries.' But it is a question of the nature of the contract. Police services, of course, are increasingly using security services. If I had told you 15 years ago we would have privatised prisons, people would have said, 'You're off your rocker.'

Mr HOCKEY—Private prisons as opposed to privatising.

Prof. Officer—Yes, okay, private prisons, but again working under contract to the government. At the extremes there is virtually nothing, but you are right: having put it out there, if it goes wrong you have got to be able to reclaim it or you have got to have a monitoring system in the first place to know when it is going wrong. Looking at the Ombudsman's report, she is signalling some of the problems here where, I think, it is a reflection that people are not giving enough thought to designing the contracts, designing the monitoring system, and making sure that it is going to work to expectations.

In the context of the efficiency of the private sector in picking this up, I think, by way of example, our long-term health problems are going to have to be ultimately solved by forms of insurance. Government may be heavily involved in tipping in, but I would have to say that I do not have a lot of confidence right at this time that the private health insurance industry in Australia could cope with the model that I have in the back of my mind. It would take some time, in the same way as some of the cathartic responses in Eastern Europe to the freeing of the political shackles and not designing the privatisation too well, and the law and order particularly, are causing massive market failures. These things are not frictionless. There are a lot of costs, there is a lot of learning to be done, and you have to be cautious—but, hopefully, not so cautious that you are inert, not moving, static. That is always a risk.

Accrual accounting, which we pushed for in the Victorian government, took the best part of four years from the time of arguing for it, whereas I argued in our report there that I would not fund them until they prepared their budgets on an accrual basis. I reckoned that we would get it in 12 months that way. So, again, it comes back to putting in incentive systems and designing it right, and you can quicken up the pace. If you design it poorly, you will get costs. The danger is of throwing out what is a sensible way of going and, because of some badly designed structures, saying, 'It doesn't work. See, we've tried it,' when in fact it is not the separation, the principle, that is at fault; it is the design in a particular circumstances.

Mr HOCKEY—Do you think national benchmarking is not used enough?

Prof. Officer—Yes, I do. I think it is very important. The problem, of course, is finding suitable benchmarks. In Victorian Work Cover, we benchmarked against New South Wales. We had a $2 billion deficit when I got on the board in 1993. We are now back at break-even. New South Wales has lost the race in this. We pulled in some overseas experts to try and design benchmarks. They came back to us and said, 'There is no single instrumentality that we can recommend, but we will grab benchmarks that are best

features of a number of systems.' That is what we are doing.

I do think it is important to have those benchmarks, those goals, to work to. If you get out in front and there is nothing to work to, you begin to think, 'Gee, this is pretty good. We've done it all'—and that is my worry. We are working very well in Work Cover at the moment and there is a feeling in the private sector to keep the entity going. But, within the entity, there is that memory of what went wrong before. In another generation of bureaucrats, that will not be there and there will be the real risk it will recede again. I am keen that we lock in the sort of structure that you talked about before, so that it cannot backslide easily.

Mr HOCKEY—It is interesting, isn't it, that benchmarking was all the go in the early 1990s as the concept for implementation in the public sector? But it seems as though it has just fallen off the beat as we have gone into the mid-1990s. Various forms of monitoring systems are falling by the wayside, particularly benchmarking.

Prof. Officer—I think the better institutions still do it. If you cannot measure it, you cannot manage it—and benchmarking is critical to that sort of thing. It may not have the seminars—you cannot drag 400 people into a seminar and charge them $250 for the day any more, because they are all doing it, they understand, and there is a limit to how many seminars you can go to on this. But there are still a lot—the better ones—doing it.

CHAIR—Professor, that comes back to the question I was asking you earlier about the concentration by the competition council on process, rather than outcomes. Isn't this really one of the concerns?

Prof. Officer—I think you have to start with focusing on process, and when you have got enough evidence of outcomes then you start. I should think we are still partly in that process stage.

CHAIR—But wouldn't you be saying, therefore, that you had better have some way of measuring your—

Prof. Officer—Absolutely—a way of measuring the benefits. I have not pursued this with the National Competition Council people or read closely about how they are going to make their judgments on the payments.

CHAIR—That is fairly critical, though, isn't it? There is a lot of money involved here.

Prof. Officer—Absolutely.

CHAIR—And you don't see it being done yet?

Prof. Officer—No, I am not saying that. I am just not close enough to it. It is not something I am involved in but I presume they are doing it.

CHAIR—I think we might follow that up with the council.

Mr CAUSLEY—The Centre for Independent Economics advocates that Australia should rush ahead and deregulate despite the rest of the world and that there are benefits in it for us. Would you, as an economist, agree with that? Do you think economists look at the social dislocation and the cost to budgets of doing that?

Prof. Officer—I think they should.

Mr CAUSLEY—Do they?

Prof. Officer—At times it is very hard to capture those things. I presume you are talking in the context of tariff policy. It is true there is no question, irrespective of what the rest of the world does in the long run, frictionless markets, we would be better off not having any tariffs. In the shorter run, there is going to be enormous dislocation. The question arises of how we can ameliorate that so that the benefits can be used to offset the disadvantages. Sometimes that is a pretty difficult judgment to call.

I guess I am more cautious and I would like to proceed in stages but I do want to see progress. I do not want to see the backsliding on that. In the context of tariffs, the notion of a level playing field is nonsense and it is a wrong way of looking at it. I am not unaware of the costs of it. If you give these subsidies to these industries—and that is what they are—at the cost to the consumer, there is never an appropriate time to pull them off. They will always have their hand out. It is in the interests of their shareholders to always have their hand out. Even when they can compete quite effectively they will say they can't and they need just a bit longer. This infant industry which we have been protecting for over 100 years needs just a little longer protection. I am very suspicious, of course, of the claims of those who require the tariff.

I do want to see the progress and I am mindful that if you pull it off overnight you have enormous social problems so you have to do it with care and, I think, with a degree of compassion for those involved in the industry. You have to work out how you finance the thing. In another context, go right back to when they gave equal pay to Aboriginal stockmen. I think most people in the community would say that is right and that is how it should be but that was a social cost that they tried to impose on station owners. How did they respond? They could not afford it so they immediately caused massive unemployment among Aboriginal stockmen because the community did not bear the cost of what they wanted. That is what often happens with tariffs and the like. The cost is often too focused when it is a community responsibility to look after those sorts of problems.

CHAIR—Unless there are further questions, can I thank you very much indeed. I think it has been a most illuminating session and we really appreciate the fact that you have given us some very frank answers and a lot of food for thought. Thank you very much.

Prof. Officer—Thank you.

[11.09 a.m.]

JOHNS, Mr Mark William, Committee member, Grain Industry Task Force, 277-279 Great Eastern Highway, Belmont, Western Australia 6104

KELLY, Mr Vincent James, Committee member, Australian Grain Industry Task Force, 277-279 Great Eastern Highway, Belmont, Western Australia 6104

CHAIR—I would like to welcome the representatives of the Australian Grain Industry Task Force to today's public hearing. I must remind you that the evidence you give at the public hearing today is considered to be part of the proceedings of parliament and accordingly I advise you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament.

The committee has received your submission, No. 96, and it has been authorised for publication. Are there any corrections or amendments you would like to make to your submission, or anything that you would like to add?

Mr Johns—Yes, there are two papers I would like to circulate to members.

CHAIR—Okay. Would you like those to be received as public submissions?

Mr Johns—Yes.

Resolved (on motion by Dr Southcott, seconded by Mr Wilton):

That the papers be received as evidence and authorised for publication as submission No. 102.

CHAIR—Do you want to make any opening statements?

Mr Johns—Yes. First, I would like to explain the documents that have been circulated. One is taken from the *Wall Street Journal*: it gives a parallel with the situation in Canada. The other is from a grain farmer who, when he heard we were speaking here, took up the opportunity to put some comments in writing and asked that we submit them to you.

As an introduction, the Australian Grain Industry Taskforce is a body of grain growers who have given up trying to change the Grains Council of Australia's policy. Realising that the opportunity for change was very close, we decided we needed to form another body to give an organisation they could come in behind to grain growers around Australia concerned about where the grain industry—particularly in the marketing of grain—is going. Yesterday in Canberra, we met with growers from around Australia. On very rough figures, we were representing a production of about 4 million tonnes of wheat. Although we are only just getting started and the name Australian Grain Industry Taskforce may change—because we have to register a name—the momentum for change and for this organisation is very great.

I will give a brief description of my background. I come from Horsham in Victoria. I was born on a grain farm and I still live on that grain farm. All of my income comes from producing grain; obviously, I am

very concerned about the profitability of the industry.

In the written submission, I gave you a very brief history of regulation in the grain industry. One of the grain industry's problems is that the majority of Australians have no idea how regulated it has been and how difficult it has been for growers to be more competitive in any area other than production. In the past that was not a problem, because in a new country and a new environment the struggle was to be able to produce the product. We had to focus on overcoming production problems. As growers, we are now much more sophisticated. Production is improving all the time, but now it is very clear that you cannot separate production from marketing. Like any other industry that is producing goods, if you cut the producers off from the end users, things go very much awry. We need to have direct contact with the people that are using our product.

Eighty per cent of our product is exported. In the case of wheat, that export is highly regulated. As growers, we cannot export our own grain. There are different statutory marketing authorities in the different states with acquisition powers over different grains. In Victoria, we have the Australian Barley Board. It does not have compulsory acquisition powers now—we can trade feed grain—but it has the sole right to export malt and barley. As I have said, while the rest of the economy is exposed to competition and market pressures, the grain industry has been very isolated in that we have not been able to compete in marketing on the export market. We cannot isolate marketing from production.

One problem is that the focus has always been on achieving price, and price has been the focus of marketing. In a marketing exercise, the information that comes with the transaction is equally important. If we are not able to communicate with the people who are using our product, we are not able to modify our production or find more economical means of arriving at that end product.

We are supporters of the single desk status. Statutory marketing authorities might say, 'We can achieve price premiums', and we would question whether the premium is there. However, what we are saying is that equally as important is the information that should be transferred with the transaction. We are not getting that information.

On the Australian front, as most of our product is handled in bulk and exported in bulk, we have had a history of statutory handling authorities where they have had monopolies on the storage of grain, and although some of the monopolies have been removed now, there have been monopolies on the transport of grain. As I said before, most Australians would not realise how regulated it was. It was not long ago that not only wasn't I allowed to sell my barley on the export market, I was meant to apply for a permit to have it transported off the farm. Although it was never enforced, I was not really allowed to store my grain in bulk on the farm without a permit from the statutory handling authority. They never enforced that on the individual farms but if someone wanted to provide a competitive grain storage facility, it was necessary to apply for a permit to do that.

Although that regulation has gone now, the monopoly in the storage and transport still exists. We are not achieving the economies that could be achieved if we had fair and open competition in the storage and transport of grain. At the moment we have a particular grain stored on the farm. It is chickpeas. We have not sold them yet, the price is moving up. They will be sold on the export market and most likely they will be

sold in bulk.

They are stored on our farm. If they are sold in bulk by export, I would expect to be able to deliver them to the port and have them exported. If I deliver them to the port I will be charged the same amount for the storage as if I delivered them up the country because there is a monopoly on the export ports in Victoria, and that monopoly on the export ports is being used to provide a monopoly on the up-country storage as well. That means that if I deliver to a local silo I will be charged X amount yet if I deliver to the port and provide my own storage I will still be charged the same amount.

In our written submission we refer to political intervention in the reform process. As a lay person or someone who lives in urban Australia, the reporting in the press would be that farmers support the single desk status and that farmers are very happy with what happens. These reports are based usually on meetings that are conducted around the country. The meetings are usually organised by the Grains Council, and probably financed by the Wheat Board.

In reality, what happens often at those meetings is that the GCA, the Wheat Board and the supporting press crew outnumber the number of farmers who attend the meetings. It means that the authorities can come back and they can report that they have run around the country, that the farmers have not raised any significant criticism and that there is considerable support.

In reality, what is happening is that we have had the existing system for so long that farmers cannot see that there is an opportunity to question or there is an opportunity to change it. The GCA is not really going out of its way to give grain farmers the full story and open an easy opportunity to make comment on it. That is going to be the role of the Grain Industry Task Force, to give grain growers around Australia a more comprehensive story of what is happening and give them the opportunity to comment on it.

Finally, I would like to ask Vincent to comment on the WI fund.

Mr Kelly—The wheat industry fund was set up in 1989 by the Commonwealth government, with the consent of wheat growers and the encouragement of the Grains Council, to fund the trading activities of the board. One of the Wheat Board's main functions is to pool wheat and maximise returns to growers. It has been very difficult to differentiate between trading division transactions and pool wheat transactions. The wheat industry fund has come under a lot of scrutiny by growers and politicians as to whether it is really meant to be a commercial fund and be commercially run. At times it has come under scrutiny for not having actually achieved the sort of commercial returns.

The Wheat Board is undergoing substantial legislative change, in that in 1999 it will undergo a competition review into the anti-competitive provisions in the Wheat Marketing Act, but prior to that, there will be a holding company set up, which will take over the current pooling arrangements and trading arrangements of the Wheat Board. The Grains Council wants to tie up the entire wheat industry fund, which is approaching $550 million which in effect is growers' money. It is a levy on growers' traded wheat in the pool. The Grains Council wants to lock all the wheat industry fund up to fund the new privatised Wheat Board. We believe that growers should be given a choice of redeeming their wheat industry fund equity or to rolling it over. The Grains Council does not want to give growers a choice to redeem their wheat industry

fund equity.

CHAIR—Thank you very much for that. I might start off, Mr Johns. You mentioned the controls that are still on the handling and storage. If this was freed up, what sort of savings do you estimate that might be available, say per tonne of grain?

Mr Johns—The Royal Commission into Grain Handling and Storage put a figure of $9 a tonne, I think it was. It will very much vary from market to market, but in the example I gave before, if I delivered to port the chick peas we have stored on the farm, I will be charged close to $20. I think a fair loading charge, if I was to deliver them to the port, very close to the shipping time, would be half of that.

Mr CAUSLEY—Have you got a private quote to say that you can do it for that?

Mr Johns—No, because when the grain is sold, if I ask the handling authority they will say it is really nothing to do with the farmer. Once you have sold the grain, the handling charge is a matter of business between the buyer of the grain and the handling organisation.

CHAIR—We will come to it another way. You say that single-desk selling takes away the opportunities for communication between buyer and—

Mr Johns—Buyer and end user perhaps, yes.

CHAIR—Do you have any evidence of the benefits that you see you might be able to get from allowing individuals or groups of farmers to market—you have said you have got up to four million tonnes, which is a significant amount of grain.

Mr Johns—The four million tonnes was actually a figure of how much the AGIT group thought the supporters of the group would produce—

CHAIR—For export?

Mr Johns—The total farm production.

CHAIR—But do you have any sort of—

Mr Johns—Example of savings? Yes.

CHAIR—Savings and benefits?

Mr Johns—Yes, certainly. We recently had a visit from a group of Chinese; beer consumption in China is increasing rapidly. They were interested in negotiating a joint venture with farmers who produced malting barley. I visited the malt house in China, where they were going to produce it. To import malting barley into China, there is a significant tariff. However, if they can have a joint venture with a foreign party—in this case, grain growers that are growing the barley—they can import the malting barley into China

at a much lower tariff. Without a significant capital investment by growers in the malt house—in fact, they really did not want any capital at all, what they wanted was a direct connection with the producers of the malting barley. We would be eliminating the charge of the accumulator agent in Australia. We would be bypassing the buying organisations in China because we would be dealing directly with the end users. We would be shipping the grain as efficiently as we possibly could and at the time that the grain was going to be used. I think we would probably achieve premiums of $40 a tonne.

CHAIR—That is fairly significant.
Mr CAUSLEY—Did the Chinese government approve that?

Mr Johns—Yes. For the joint venture to go ahead we would have to have approval. We spoke with the local government authorities in the area in China and they were very enthusiastic.

Mr CAUSLEY—Yes, but the central government has a propensity to interfere in China.

Mr Johns—The regulation change in China is outpacing the regulation change in Australia and the central borrowing authority in China has gone. We have had a longer history of regulated marketing in Australia than in the USSR or in communist China.

Mr CAUSLEY—You would take the risk of being paid?

Mr Johns—The sales would only occur on letters of credit recognised in national banks.

Mr Kelly—Could I elaborate on that, Mr Chairman?

CHAIR—Yes, certainly.

Mr Kelly—Current export price for good quality malting barley is in the area of $US220 per tonne FOB—that is at Geelong and Portland. That is a freight on board price which is around about $A280 per tonne at the moment. The Australian Barley Board which has monopoly rights on the acquisition of all barley in the states of Victoria and New South Wales will—

Mr Johns—South Australia.

Mr Kelly—South Australia, I am sorry—will return growers after two years—for that same $US220 a tonne barley—$A145 a tonne net after two years. They have a monopoly on this malting barley. We believe, if the anti-competitive provisions were annulled under a review, then people at the farm gate would be far better off.

CHAIR—You say effectively it is about half?

Mr Kelly—Correct.

CHAIR—Where is the rest of that money going?

Mr Kelly—A good question. Sixty dollars per tonne is going in freight—that is, freight from the farm up country storage, rail freight or from the farm gate to the port; that being around about $23 a tonne rail freight. The balance is approximately a dual handling charge of up country handling, local silo and port facility of $35 a tonne, plus the barley industry fund levy, which is compulsory if you deal with the Barley Board, one per cent research levy which is a compulsory Commonwealth levy, 1.03 per cent of your net farm gate price and there is one other charge. But it adds up to around about $60 per tonne. The balance is taken up by the statutory marketing authority.

CHAIR—That does not quite explain why you have gone from $280 down to $145, and why it is taking two years to get payment.

Mr Kelly—There is still $60 a tonne in there and we do not know where it is going.

Mr Johns—I think the marketing board's explanation would be that they are a pooling authority and that they will have sold barley at a lower price and perhaps a higher price and that over the longer-term that is the price they have achieved. As there is very little transparency in what happens within the marketing boards, it is difficult for us to answer the question about the difference.

Mr CAUSLEY—Don't you get a premium for quality?

Mr Kelly—I am sorry I should have distributed this document to you. The various grades of malting barley are listed here in our board's report to the grower's. You are welcome to have a copy.

Mr Johns—For barley in Victoria, you can get a price for malt one and there is a $5 discount for malt two. There are a number of factors that can bring it from malt one to malt two. It is all tipped in the same bin, anyway. The next discount is basically feed. If you do not achieve the malting grade, you achieve feed grade.

Mr CAUSLEY—Were you saying that there is cross-subsidisation and that everyone pays the same for freight or is it a kilometre rate?

Mr Kelly—That raises that issue that Mark brought up earlier. If you stored your own barley on your farm, and delivered it to the port or the port handling facility, you would get no preferred handling status. You would still be charged the up country charge. There is no competition at the ports.

Mr HOCKEY—Without having the figures in front of me, I am not too sure what we are getting at. As I understand it, you are saying that there are no real economies of scale. On that cross-subsidisation issue people who are further away are paying the same sorts of freight charges. That is not necessarily an advantage. Can we deal with the economies of scale first?

Mr Johns—An individual farm production of less than 1,000 tonne would be at a significant disadvantage. There are economies of scale under a certain point but you do not need to accumulate over the whole of the state or the whole of the country to achieve some economies of scale. Just quickly on the freight, the shorter the haul, the less you are charged.

Mr HOCKEY—So that would obviously disadvantage the farmers who are further out?

Mr Johns—That is right and that would be reflected in the value of the farms.

Mr HOCKEY—How have you measured the cost of storing the grain in your farms as opposed to storing it in silos elsewhere?

Mr Johns—There is a production advantage in having on-farm storage. At harvest time, if you are harvesting with modern equipment, you may be harvesting 500 or 600 tonne a day. Without owning a fleet of trucks, it is not physically possible to deliver it economically into the system. You are better off to own your own storage at harvest time so that you can get it out of the paddock and into safe storage as quickly as possible. It is unfortunate that we cannot utilise that storage and get paid for storing the grain and then just deliver it directly to port, which is what occurs in lots of other countries.

Mr HOCKEY—It seems to me that you obviously want to free up the market and so on.

Mr Johns—Certainly.

Mr HOCKEY—That is a very worthy goal but there is a significant downside for some members of the industry in what you are doing. From my experience with various farming groups, when things are going well, all is good in the way that it should be but when things are going bad, everyone screams. That is the same with all industries, I suppose. It is not exclusive to farmers. But there are the vagaries of weather and a whole range of other things, and the extreme volatility of various grain markets and most international markets. It seems as though you are saying that farmers should be opened up to become not just farmers but also players in the international market.

Mr Johns—First, I would like to disagree with you on the downside. Please explain what the downside is. As I said in my introduction, you cannot be a farmer and not be involved in the marketing.

Mr HOCKEY—The downside is you are a farmer. You said you just went to China?

Mr Johns—Yes.

Mr HOCKEY—How many farmers get the opportunity to go to China, meet up with someone and say, 'Here is a buyer for my grain'?

Mr Johns—Would you go into the business community and say to them, 'How many of you are that incompetent that you cannot go and do business?'

Mr HOCKEY—It depends where the consumers are. If you are selling to an international market, there are certain benefits and economies of scale. For example, everyone talks about there being Australian car manufacturers. There are no Australian car manufacturer: they are international car manufacturers selling to a world market. So you are selling to a world market. The people who are buying the wheat from David Smith who has a farm outside of Wee Waa are the people in Lucerne in Europe.

CHAIR—I do not think we ought to get into a debate.

Mr HOCKEY—I am just throwing out the challenge.

Mr Johns—One problem I have is that the Australian community tends to think of farmers as being people who should stay out in the paddock, who are not competent when it comes to conducting commercial business. I would like to push the point that Australian farmers have come a long way since that.

Mr HOCKEY—Sure.

Mr Johns—The Chinese came to Australia. The return visit that I did was on behalf of a group of farmers and, as I said before, there are certainly economies of scale. It would be very difficult for a small farmer, or someone that produces say 1,000 tonne, to be able to competitively sell a commodity like wheat or barley on the international market. But there are lots of groups of farmers getting together to buy products, say, their inputs. They would like to be able to get together to sell their product as well.

Mr MUTCH—What if they are cutting each other's throat by competing with each other? You get these various groups that are multiple private desk?

Mr Johns—Mr Hockey referred to the fluctuations in the world price and inferred that there was some protection from the single desk. Historically, if you look at the movement of the price returned to growers in Australia, it has tracked or possibly even stayed under the prices that you will find on the world commodity exchanges. The single desk has not protected price fluctuations. It may have levelled them out a little but, overall, the single desk status has not provided protection. A classic example of that was this year. In April and May last year, there were press releases from the Wheat Board saying, 'Prices are good. We expect them to stay there for some time.' They came at sowing time when growers were deciding whether to put in wheat, triticale or barley. I mean, there are lots of options for the paddock now, and it is interesting that the marketing boards always have little press releases about April and May suggesting that the price for their particular commodity will be good. The Wheat Board clearly misjudged the market. The price dropped. The price to Australian growers dropped more than the Chicago prices so the single desk provided no protection at all.

Mr HOCKEY—I am just referring to the *Wall Street Journal* article, which was tabled. Quite honestly, what is happening in Canada is quite horrifying. The article also refers to the case where the Canadian Wheatgrowers Association basically failed to hedge the risk of prices. A single desk should be able to hedge risk in the same way that farmers cannot usually hedge risk because they are starting to get into quite complex financial instruments. If you are going to be making money out of selling widgets, you want to be making the widgets. You do not want to be trading them.

CHAIR—I do not think your assumptions are correct. Farmers are moving into these options or futures.

Mr HOCKEY—They are and I would imagine that is a necessary part of farming now but there obviously some farmers who would not want to do that.

CHAIR—Yes, and that is why you have boards. I think the question is more about whether it has a single desk status.

Mr CAUSLEY—I was going to ask about the board itself. I am a farmer and I belong to the sugar industry. We have single desk selling—not so much in New South Wales but certainly in Queensland. CSR, the contract seller, reports back to the industry regularly about product, about markets and about what you have to be doing to supply those markets. I would say that it is probably criticism of the board more than anything else.

Mr Johns—Actually, in David's press release he referred to the AGIT as being against the Grains Council and the Wheat Board—actually the Wheat Board have been quite supportive and our written submission was given to the Wheat Board in Western Australia, and they went over it and I think they actually made some contribution to it and were very supportive. Large sections of the Wheat Board can see that change is going to happen and would like it to occur in a constructive forward-looking way.

CHAIR—Can we just elaborate on that point? Does the Wheat Board have a clear policy on the single desk? I know what they say privately.

Mr Johns—Just this morning I saw the Wheat Board's submission to this panel and their claims of the advantages of the single desk I think are questionable. I would contest some of their claims.

CHAIR—Could I try it in another way. We have seen the deregulation of the domestic wheat market in the last seven or eight years now. What benefits have flowed from that and what constraints have there been on benefits or what has been the down side?

Mr Johns—In the argument that led up to the deregulation of the domestic market, the GCA and probably the Wheat Board were claiming that the domestic market for wheat in particular in Australia was not that significant. But they would like to retain the single desk on the domestic market. When the single desk on the domestic market was removed, I am not saying that all of this resulted from it, but there was an enormous explosion in the consumption of feed grain or feed wheat in particular in Australia.

It meant that the end users—the feedlots, the poultry places, the piggeries—were able to buy directly, legally, from the farmers. The advantage in that helped them improve their productivity significantly and the consumption of feed grain in Australia has really taken off since the deregulation of the domestic wheat market. I am not saying that all of that improvement is the result of the deregulation, but I would say a significant part of it is.

CHAIR—And the current domestic market is about eight or nine million tonnes and was two or three million?

Mr Johns—I am not sure what those figures are. But one concern at the moment is that with the imminent removal of the single desk status from the statutory marketing boards, or the perception of their removal, the marketing boards are very concerned about their market share. There are many examples of the marketing boards undercutting the growers to achieve market share, and they do not appear at all concerned

about achieving premium prices—

CHAIR—Can you elaborate on that?

Mr Johns—Yes, certainly. An example that was quoted to me yesterday from growers around Yarrawonga who had traditionally supplied a local feedlot was that they found that, prior to harvest in the last two or three years, the Wheat Board's trading arm had gone to the feedlots and—I do not have the exact figures—offered long-term supply contracts for the following year, before harvest, before the growers had any grain—and traditionally the growers did not forward sell their feed grain—at very attractive, low prices.

The figures that were quoted to me have indicated that the price that the boards forward sold at for the year are now about $50 a tonne under what the actual price is. They are making big losses on those sales, but their concern is only to have market share at the moment.

CHAIR—Does the Wheat Board disclose that type of—

Mr Johns—No, there is no transparency. With what happens within the trading arm or the pool arm of the Wheat Board, it is very difficult to get that information. On our own farm we produce soft biscuit wheat which we have been selling to a mill in Ballarat for about 10 years. In about September we usually go to the mill to try and ascertain what their requirements will be and what sort of prices are required.

The pricing is always based on what the pool will return and then perhaps a few more dollars just to make it worth while for the grower to deliver to the mill. In our case, the saving is largely in being able to get some value from the storage on farm, because if we can deliver it to Ballarat direct to the mill we incur no storage charge, and that is where the main saving is. The price the mill pays is just the pool price basically, plus a very small amount.

There is no real reflection of what the mill gets for its flour back to what it pays for its wheat. In fact, researching grain pricing around the world, one of the comments from the American growers was that it was very easy to get spot prices. Reporting and pricing is no problem. It is working out whether the price is a realistic price, pricing it from the end product right back to the grower and seeing that the processor is not making excessive profits that is the difficulty.

CHAIR—How would you establish a price if it was not relating it back to the pool?

Mr Johns—If we did not have a marketing board—the Wheat Board, in this case—which basically has an unlimited supply of grain to supply to the domestic mills, all the different marketing organisations would have to compete for the grain from the farmers. Hopefully, you would not be in the situation where you have one very big player who basically has a monopoly on the market. Then what I suppose you could refer to as proper market forces could be in place.

CHAIR—Isn't that one of the problems, that farmers have been seen as a large number of small sellers versus a relatively small number of purchasers and there has not been equal market power? How do you get around that?

Mr Johns—I think there are a lot more purchasers. In the past, the impression was always given that there was a very limited number of purchasers. If we look at the number of purchasers through South-East Asia, we could see South-East Asia in the same way that American producers see all of the states in America.

Mr CAUSLEY—But in South-East Asia they want a reliable supply. How do you guarantee that?

Mr Johns—We are selling a commodity and it is going to fluctuate from year to year. They are going to be able to buy it from different places. Certainly they would like a reliable supply and our reliability is—

Mr CAUSLEY—A real problem in Australia.

Mr Johns—That is right. But I cannot see that it would be a great problem for growers to work in a relationship with Canadian or American growers.

Mr Kelly—Might I add that we are really a price taker on the international wheat market, basically because we produce 15 to 20 tonnes of wheat for export, whereas the Americans produce in the order of 50 to 60 tonnes and the Canadians around 25 tonnes—depending on a few things. We are a price taker. There are established price discovery mechanisms to determine price. You raised the question of how buyers and sellers arrive at a price. The American and Canadian system is, I believe, reasonably foolproof. They have fair and reasonable price discovery mechanisms, being the grain exchanges, where international grain is traded. It is an open system and it is not able to be corrupted by—

Mr CAUSLEY—The Canadian system might be, but the American system is quite strange. They get paid not to grow wheat and they get EEP to support their sales.

Mr Kelly—I understand the Americans have not administered an EEP subsidy for nearly two years, although they have $100 million in the bank.

Mr CAUSLEY—I wouldn't hang by my teeth!

Mr Kelly—On wheat or grains. Is that correct?

Mr Johns—Yes; and the set aside program has enormous advantages for the whole world. They are concerned about the total world production, but they are also concerned about the environment they are growing the grain in.

Mr CAUSLEY—Isn't this really a situation where you can see an advantage personally by breaking down the system, whereas you are not really looking at modifying the system to make it work?

Mr Kelly—My answer is that this whole issue is not just an economic issue. There is a philosophic issue here. People in our community are entitled to a choice. We are entitled to choose where we sell our produce, not just to be compelled under law to sell our produce through a board. If growers believe they can better their standard of living and improve their community's outlook, they should have a choice to actually

market their own produce. That is a philosophic—

Mr CAUSLEY—If you take that to its conclusion—if we look at the bulk handling and storage, et cetera, of grain, if you let every individual grower take over the responsibility for that—you are not going to have any bulk handling of grain. You will have individual trucks trundling down to the port and you will probably have separate grain handling facilities at ports. That is all costly.

Mr Johns—The assumption is there that the market does not work.

Mr CAUSLEY—Would you assume that? If you did not have that centralised handling system, you will have it split up into small entities, aren't you?

Mr Johns—At the moment in Victoria, we have probably three times as much grain storage on farm as in the system.

Mr CAUSLEY—How would you transport it?

Mr Johns—We would transport it probably a lot more efficiently than it is being transported—

Mr CAUSLEY—By truck?

Mr Kelly—Rail, road. If we owned our own little community bulk handling facility, if the state government had sold this current handling facility known as the Grain Elevators Board in Victoria, if they had come out to little communities and said to growers, 'Look, this is for sale' and if we had been given the option to buy our own little bulk handling facility, we would have been able to retain that money in our communities. We would have been able to go to the railways and get a contract price to deliver our community or cooperative produce to the port. We would have been able to go to the railways and—

Mr CAUSLEY—Who owns the facility at the port?

Mr Kelly—At the port, it is owned by the monopoly Vicgrain.

Mr CAUSLEY—In your deregulated system—

Mr Kelly—There are only two port handling facilities in Victoria. If they had been split up, they could still be operated on a separate multi-owner basis. Geelong could have been—there is a million tonnes of storage there—owned by two owners. Portland could have been owned by a separate owner competing for our grain to go through, whereas the charge that is levied under the Victorian Grain Handling and Storage Act now is a prescribed service—$20 a tonne. There is no negotiation in that.

Mr CAUSLEY—This is a vexed subject. I have been in the middle of it for some years. I was the minister for agriculture in New South Wales—

Mr Kelly—Yes.

Mr CAUSLEY—I dispute what you are saying about the growers. I went out there without the GBA or the wheat board and talked to them. There is probably more division within the barley industry than there is within the wheat industry, I would say. But, generally, without political interference and without interference from other sides, the majority of growers are still saying, 'We want single desk selling.' Whether they know what they are talking about, I don't know. They see it as being an advantage and they see that they can get efficiencies or economies of scale out of being together.

Mr Johns—All the time that I was growing up—our farm spent one year in four—all of our efforts went to two organisations: the railways and the handling authority, and we were only 140 miles from the coast where it was shipped out. We had horrendous handling charges and that was as a result of having a centrally administered authority. And you are suggesting that the centrally administered—

Mr CAUSLEY—An inefficient rail system as well.

Mr Johns—That is right. And I would say that the scenario where every farmer will truck their grain individually to port and export it individually, is extreme. It would never happen.

Mr CAUSLEY—You would see private trains paying for the right to use the line?

Mr Johns—I would question whether many reviews of grain handling and transport have come up with figures indicating that transport of a bulk commodity under 800 kilometres is less efficient by rail than road. I have not spent much time looking at that, but I would wonder whether the transport of grain in Victoria and the short hauls that we have is actually more efficient by rail.

Mr MUTCH—What damage would it do if some freedom was allowed to you guys? You still have got your desk. What damage does it do to those people who are still selling through the desk? If you are allowed to have the freedom to sell your wheat or at least have the regulatory right to utilise the facilities that are a monopoly now, what damage is that decision going to do them anyway?

Mr Johns—It is very clear what the damage was. People would stop selling through them because it would be making our returns—

Mr MUTCH—That is not to the other farmers. I am talking about damage to the farmers.

Mr Johns—The boards would argue that we would be taking their premium markets and leaving them with the—

Mr MUTCH—The concern was if you are going to go overseas and cut their throats. Is that what their concern is?

Mr Johns—No, in the case of the malting barley—on which we could get no cooperation from the Barley Board, we could not get permits—we were dealing with 44,000 tonnes of malting barley going to a market which was not there before because the malt house has not yet been built. They need the joint venture to be able to complete the construction. It would not detract from the existing board's markets. What it would

do—

Mr Mutch—Was it adding markets?

Mr Johns—It was adding markets, but it would also be pulling out of the pool. That would be that much less grain that they would have to trade with.

CHAIR—Can I just follow up on the single debt: with countries that have a central buying system—

Mr Johns—Which ones?

CHAIR—Iraq does, doesn't it?

Mr Kelly—I think Iraq does still have a central market.-

CHAIR—Iraq has been a long-time customer. Where would that fit into the scenario that you are suggesting?

Mr Johns—As I said before, the transparency of what happens in the trading of export grain in Australia is not very great. So it is very hard for us, as farmers, to answer questions like that. In the case of Iraq, I would ask which trading organisation goes between the Wheat Board and Iraq anyway, and I am sure there are probably one or two in there. Principally, I just see the Wheat Board as an accumulator in Australia which passes the grain onto international trading organisations. Why can't we just deal directly with the international trading organisations?

Mr Kelly—My understanding is that the Iraqi Grain Board still deal with traders to secure their wheat supplies in the order of a million tonnes up to two million tonnes.

CHAIR—You may be aware that the first annual report of the National Competition Council was critical of the fact that there is no review of the Wheat Marketing Act of 1989 for 10 years. Have you had any discussions with the competition council about that point? Were you not aware of that?

Mr Johns—Yes, we were.

Mr Kelly—We were not aware that the review had been put off for 10 years.

CHAIR—It is 1999.

Mr Kelly—The Grain Industry Task Force has met with the National Competition Council on a number of occasions. We have desperately tried to bring forward the review of the Wheat Marketing Act and, in particular, the review of the anti-competitive provisions in the act. But for political reasons, prior to the election, there was an undertaking given to the Grains Council that no review take place for the term of the first coalition parliament. I believe that is the case. So we are unable to bring forward or precipitate a review of the anti-competitive provisions.

The government has given an undertaking to the Grains Council that it will not be reviewed until at least 1999. We can see that we can do very little about that except where the Wheat Board has said we would like to bring the review forward. We have been told that if we could get enough support to bring the review forward, prior to 1999, then it would go ahead, but we think that the Wheat Board is resigned to a 1999 review.

Mr Johns—That is right. As an example of where we are supporting the Wheat Board, we are supporting the Wheat Board's position on the future. We have found we are also supporting the Wheat Board in saying that we should bring the review forward.

Mr Kelly—Mr Causley raised one issue about the unhappiness in the community towards state grain marketing boards and, in particular, the Australian Barley Board and the Grains Board. Most people in the grain industry are aware that there has been an enormous legal battle taking place in the courts between the Grains Board and the Australian Barley Board over a number of issues. I believe that the issue is currently before the Federal Court. It relates to substandard barley being sold into China.

The Australian Barley Board has made unsubstantiated claims about substandard barley being sold into China that it cannot determine the origin of, except to say that it believed it came out of Geelong. So it embarked on a legal battle which involved the Victoria Police interviewing a number of people in the industry under a section of the barley marketing act, which it is empowered to do. So far the legal proceedings have appeared to yield very little in that area, except to say that I believe the Australian Barley Board in its position with these documents is able to prove that it has actually been selling feed barley into China and other countries as malt and paying the growers a feed price.

I would be happy to table these documents. I believe there has been a substitution racket going on and the Barley Board has been trying to lay off blame on to the grains board in this issue. In fact, they are the ones who have been selling substandard barley into China.

CHAIR—Could we have a look at these before we accept them as evidence?

Mr Kelly—Yes.

Mr CAUSLEY—There was a criticism in China when I was there of the Australian barley industry, and probably the board itself. Apparently the malting processes for Australian barley are quite different to European barley and the Chinese had not been told there was a different in it.

Mr Kelly—Right.

Mr CAUSLEY—I do not understand—

CHAIR—Just to clarify the point, we will have a look at these before we accept them because if there are some legal ramifications—

Mr CAUSLEY—What is their source?

CHAIR—If there are legal ramifications I think we had better look at them carefully before we put them into the records. Is there anything else people would like to raise, otherwise, can I thank you both, Mr Johns and Mr Kelly, for coming here today and adding to the morning's hearings.

[2.05 p.m.]

MOYLAN, Mr Peter, Industrial Officer, Australian Council of Trade Unions, 393 Swanston Street, Melbourne, Victoria 3000

NEWCOMBE, Ms Jennifer Mary, Research Officer, Australian Education Union, TAFE Division, 120 Clarendon Street, South Melbourne, Victoria 3205

NICHOLLS, Ms Jane Elizabeth, National Research Officer, National Tertiary Education Union, PO Box 1323, South Melbourne, Victoria 3205

CHAIR—I welcome the representatives from the Australian Council of Trade Unions to today's public hearing. I would like to remind you that the evidence that you give at the public hearing today is considered part of the proceedings of parliament. Accordingly, I advise you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of parliament.

The committee has received your submissions Nos 54 and 67 and they have been authorised for publication. Are there any corrections or amendments you would like to make to those submissions?

Mr Moylan—There was an earlier submission which is our number D13295. That was sent to the committee prior to the last federal election.

CHAIR—That is No. 54.

Mr Moylan—There are three documents which have gone to the committee. The next one was the October 1996 submission, which is D6796 in ACTU language. I also sent another document, ACTU No. D551996, which I understand was to be circulated to the committee. That dealt with contracting out. Those submissions constitute the documentation relevant to this inquiry which we have sent.

CHAIR—Yes, we have received those. Would you like to make an opening statement?

Mr Moylan—I would like to start by saying that it is a welcome opportunity to be here before this committee to discuss national competition policy because the implementation of a national competition policy is largely a political matter—that is, a matter which involves political judgments and the weighing of different values and objectives. There are some who portray competition as a science and there are some who argue that it is a value per se. From the time of the Hilmer inquiry, we have been involved in discussions which led to the competition principles agreement and the amendments to the trade practices legislation.

We have consistently made the point that public interest factors are important in the development and application of a national competition policy. That is reflected in the inter-governmental agreement, particularly clause 1(3), which says that in making any decisions in respect of access, competitive neutrality or regulation review, governments are to have regard, where relevant, to factors such as the environment, social equity, community service obligations, employment and regional development. They have been quite consciously placed in the agreement. It is our view that the agreement should be implemented in such a way

that those provisions are given effect to.

There are matters which we have been in correspondence with the National Competition Council about, where that body is saying that it is not in a position to give effect to those matters. We would say that at least any report that is coming from jurisdictions to that body on, say, regulation review, should articulate in a transparent way how the public interest requirements of the agreement are given effect in the action proposed. That is to say, if a government is proposing that certain legislation get repealed on the grounds of its impact on competition, it should also document what the impact of the proposed course of action would be on those matters listed in the agreement—for example, on community service obligations or social equity.

We are concerned that the National Competition Council has shown itself unwilling, so far, to implement that. We are also concerned that its documentation, such as the *Considering the public interests under national competition policy* booklet which it put out, does not accurately reflect the requirements on governments under the agreement. This is quite a permissive document. For example, in respect of clause 1(3), which I have been talking about, it states that it 'allows governments to assess the net benefit of different ways of achieving particular social objectives.' But that is not what the clause says. The clause says:
Where the governments are taking action under the agreement, the following matters shall,—
not 'might', not 'possibly shall' or 'if you like', but 'shall': that word is used quite consciously in that agreement—
where relevant, be taken into account:—

And then it lists them. The National Competition Council's documentation continues in a similar vein. We are also concerned that other provisions in the agreement are not reflected appropriately in the material put out by the National Competition Council. For example, its latest publication that I have seen is to do with competitive neutrality reform, and it argues that competitive neutrality should 'extend beyond activities undertaken by governments on a commercial basis to activities which might be undertaken on a commercial basis'—but that is not in the agreement at all.

It also argues that 'the costs of reform are generally concentrated in particular areas'—but that is not so. These matters under 1(3) are of universal obligation across the community. It does say that there is support in the agreement for corporatisation—and the agreement does provide for corporatisation 'where appropriate'. The council is ambivalent on the relationship of competitive tendering. At one stage, this document says that, 'while recognising the competitive tendering and contracting is not required under the agreement, it has some consequences.'

Later, they go on to say that 'all governments have made progress in recent years—most notably through commercialisation, corporatisation and privatisation—in addressing issues relating to their involvement in business. They also say that 'opening service provision to competitive tender is clearly one means governments might adopt to satisfy the requirements of the CPA'—but there is nothing in the Competition Principles Agreement that advocates competitive tendering.

They go on to say that, 'similarly, privatisation is not a requirement of the CPA.' That is correct. CPA quite consciously says that it is neutral on public and private ownership, and that is quite explicitly put in there; but the council then goes on to say that 'it could be a means by which governments choose to satisfy

their competitive neutrality obligations.' This document, as far as I can see, has no reference to the public interest requirements under the agreement.

We are also concerned, along with other people who cannot accept the decision of governments, to include public interest requirements in the agreement. I have recently seen a document that the Industry Commission has put to the National Competition Council on access regime, a document in which the Industry Commission says to the National Competition Council:

Indeed, in a recent publication, the NCC recognises that, in some circumstances, an extensive evaluation based on clause 1(3) of the CPA would not need to be undertaken.

It then goes on to express the commission's view:

. . . economic efficiency considerations should drive any assessment of public interest concerns.

That is not what this agreement says. This agreement says that government 'shall take account' of these factors. It does not say that it should be driven solely by economic efficiency matters. The Industry Commission goes on to say:

The Commission acknowledges that the inclusion of 1(3) in the public interest test may mean that in some (probably rare) circumstances, the NCC could be hesitant to recommend declaration of a facility.

They have presumed, prejudged that the public interest considerations will have next to no impact. So one of our major concerns is that the mechanisms which have been set up and the major source of advice to governments on national competition policy, in our view, are failing to give effect to obligations under it. This is quite an urgent matter, given that the National Competition Council is in the process, I understand, of developing recommendations to the federal government about payments to the states on the basis of meeting their commitments under this agreement.

In my view, the question of the balancing of competition against other objectives such as social equity is the business that you are involved in—the business that the parliament is involved in. It is why you have debates. It is why legislation is passed which gives different weights to different factors and various objectives. It is certainly our submission that urgent attention needs to be given to ensuring that the obligation of governments, under the agreement, is given effect to.

The second major concern, which we think will be of interest to this committee, is the regard which is not being paid to undertakings by the then Assistant Treasurer, George Gear, in introducing the national competition package. The package was introduced as that—a package—with Mr Gear's second reading speech, the amendments to the legislation, and the agreement.

Mr Gear gave a number of undertakings, some of which are outlined in our submission to your committee, along the lines that the competitive neutrality reforms are relevant only after governments have taken the threshold decision to introduce competition, and then only to significant business activities. He then went on to discuss the views of some people, which included us, about the impact of holus-bolus, unrestricted application of competition policy to areas such as education, health and community welfare. You will see

from Mr Gear's speech that he thought that by and large they are not matters which are subject to the competitive neutrality.

He said that the government school system, for example, is a not for profit activity and should not be regarded as being competition under the competitive neutrality arrangements between government and non-government schools. He went on to say:

> In sectors such as education, health, welfare, community services and labour market programs where the public sector has, and will continue to have, a dominant role, the relevance of competition policies will be limited to those circumstances where enterprises are engaged in business activity. In most cases where this is an issue at all, this is a small part of their overall role or is ancillary to the provision of core services.

We think that this was an important undertaking to the parliament about the application of these competition principle agreements. We did raise with the National Competition Council the regard which they would pay to Mr Gear's speech in administering the legislation and the agreement. There are replies in our submission to you. If you can comprehend them, I would be grateful for your advice, because they merely restate some of the things that Mr Gear has said.

The third area that we have raised in our most recent submission are the processes of the National Competition Council itself, where they have been reluctant to engage in public debate. The chairman, Mr Daniels, has been keen to say how the commission has worked in a secret manner with other jurisdictions. We find it interesting that people advocate transparency but that this has not characterised their activities so far, except in regard to the publication of documents, which I have argued is inconsistent with the agreement and with the legislation under which they were established.

In our earlier submission, we had proposed a number of issues to do with the administration of the agreements. In respect of the access regime, we have sought that the agreement requires that access determinations take into account the interests of people who have the rights to use the service, including the impact on the capacity to deliver a high quality universal service on an equitable basis. We are concerned that competition policy will be used as a device for cream skimming which would have significant adverse impact on rural and remote areas throughout Australia.

We have also raised the question that the competition principles agreement explicitly require that account be taken of the interests of employees in respect of terms and conditions of employment. I understand that Professor Quiggin was recently before your committee. He has been one with us in arguing that reduced terms and conditions of employment do not constitute an efficiency gain, but rather a transfer of wealth from some people to other people.

They are some of the main matters, Mr Chairman, which we have put to the committee in the submission. We are quite happy to talk to you about matters within your terms of reference. I should say that Jenny is particularly involved in the TAFE education area and Jane in the higher education area. It may well be that some of the general points I have made can be given impact by specific reference to those areas.

CHAIR—Thank you very much, Mr Moylan. It is clear that you have been doing some very detailed work there in your comparison of what was said at one stage and what has appeared in some of those reports

since. I make one observation. I am not sure the Industry Commission necessarily speaks for government.

Mr Moylan—I hope not.

CHAIR—It is only an advisory body.

Mr Moylan—I have raised that because they do have a role. A Senate committee is looking at legislation for the establishment of the Productivity Commission to replace the Industry Commission, which would give a role to that body in terms of administering complaints in respect of competitive neutrality. That is not a position that we support and we will be saying that to the Senate committee looking into that, given the Industry Commission's consistent bias against public agencies.

CHAIR—In your opening statement there are two things I would like to follow up initially. You talk about some of the comments that have been published by the NCC in follow-up from what was initially stated in the COAG agreement. Have you looked at some of the statements by state governments to see whether or not they still follow the original agreement or whether they are going down the road that the competition council is now talking.

Mr Moylan—I have seen some general work. I understand Stephen Rix from the Public Interest Advocacy Centre from Sydney was before you. He has done some work on different approaches on regulation reviews. The Public Sector Research Centre at the University of New South Wales has done some work on competitive neutrality and on regulation reviews. The documentation from the Commonwealth, which is most pertinent to you, does not indicate how, for example, the list of Commonwealth acts which are to be reviewed have been chosen, in terms of their public interest criteria.

CHAIR—What I am getting at is this: in terms of the way the states are actually implementing competition policy, are they paying due concern to the issues that you raised at the beginning?

Mr Moylan—I have no evidence that they are. Unfortunately, I do not have an expectation that the National Competition Council, which is the Commonwealth body, is requiring them to do so. I base that on the statements that that body has put out about the requirements.

Ms Nicholls—I would illustrate that from my own area. In higher education, it would seem that what is happening is that one state—New South Wales—is taking a different position from that of the other states about the implementation of competition policy in higher education in universities, and that the states are in general dealing directly with the Department of Employment, Education, Training and Youth Affairs higher education division in developing a national approach. This national approach is proving difficult to develop, because New South Wales appears to be taking a position which is more in line with the position that Mr Moylan put forward before that the ACTU supports, while others are allowing the Commonwealth to take a rather aggressive and radical stance on the issue. I can give you more detail, if you wish.

Ms Newcombe—Similarly, in the area of TAFE, one of the points that I wanted to make was that it seems that Victoria, for example, has a competition policy for vocational education and training which is to implement the national policy; and that is not the case in the other states. In fact, there is tendering and

competition across state boundaries, as well, in the vocational area. So we have the situation where, in some cases, Victorian TAFE colleges are delivering programs in the Northern Territory or in Western Australia—meaning, in many cases, loss of jobs and so on for people in those states. That has been my advice.

CHAIR—Presumably that is increasing jobs in Victoria: is that the result?

Ms Newcombe—Yes; although I think that there is also an argument that the infrastructure in Victoria is supporting provision in the other states. With the vocational education and training area, it is of course a combination of a large degree of Commonwealth funding but state control.

Mr ALBANESE—Could you illustrate what you see as the adverse impact of that?

Ms Newcombe—Of what I just mentioned? In a broad sense, it is the inconsistencies, and the fact that people in the field seem to feel it is a bit of a mess. The inconsistency is in terms of the implementation or application of policy around the country.

CHAIR—How is that inconsistent with, for example, the University of New South Wales attracting students from Victoria?

Ms Newcombe—It is of concern, if you take the example of the Northern Territory. Indeed, it may mean job creation for Victorians, but it means loss of jobs for Territorians. My advice has been that people in the Northern Territory and other areas would be concerned about that loss, because the Victorians will go for a short period of time to deliver or teach courses in that area and then return.

CHAIR—But we are talking national policy, though, aren't we?

Ms Newcombe—Yes.

Ms Nicholls—There are attacks on, or an undermining of, quality inherent in some of these situations. I use the example of the private provider market for international education for overseas students. For some years there have been quite serious problems because you get a lowest common denominator effect operating. Because institutions that are private providers offering education to overseas students are registered and regulated on a state basis, it means that institutions can take advantage of that fact to expand nationally, for example, by registering in a state that has very lax requirements in relation to things like staff-student ratios, facilities, quality and everything for registration, and then can operate in other states. We had for some years a number of institutions that were registered in Queensland—which had extremely relaxed requirements—and were operating in other states and undermining the general quality of education available around the country.

Mr CAUSLEY—How do you get the happy medium? You get one extreme where there are scarce taxpayer funds that could be said to be being used inefficiently, and the other extreme where we have got competition policy which is delivering what you are saying is happening at the present time. How do we get that happy middle ground that is going to give us efficiencies but also get away from some of the problems that you are identifying?

Mr Moylan—As a general point, if governments want to have increased efficiency in the delivery of services or the development of policy, or whatever area it is, it is appropriate to look at the particular characteristics of that agency. For example, the Australian Postal Commission is a government agency which does have some protection against intrusion into the standard letter business; but it is one which has—through various measures, including the use of technology, better training of its staff and increased multiskilling of its work force under industrial agreements—enhanced its productivity enormously and is a world-class postal service.

It is appropriate for governments and for the community generally to look at particular areas and the characteristics of those areas in terms of the best solutions. It is irrational to assume that the application of competition will automatically generate benefits everywhere but no costs anywhere: that is just not so. That is partly why I went to the public interest factors. Governments are obliged to take a total view of the impact on other government objectives and policies, when they are looking at competition policy.

CHAIR—I agree with you that Australia Post has done a great job and made some great advances in its performance, in whatever way you want to measure it. Equally, there is more competition now with Australia Post than there was 10 or 15 years ago. People are carrying parcels by courier services, and the competition policy was introduced four or five years ago that anything down to three times the standard letter rate can now be carried by a private competitor.

Mr Moylan—Yes. If you look at the improvement in the postal service—say, back to the time of the abolition of the old Postmaster-General's department and the creation of Australia Post—you can trace a number of changes at various times. Really, I am saying that you cannot look per se at competition from outsiders. Of course, the post office itself has also become more competitive in terms of the range of services that it provides. But that alone has not been the cause of its improvement. The reports of Australia Post are honest enough to look at a number of other changes that have taken place.

CHAIR—They have made a lot of changes: they have contracted out a lot more work—and, as I say, there is more competition—and they have sought to use their facilities to expand their range of services.

Mr Moylan—Sure; but you have come to a position where some people will now say that we will remove the protection on the standard letter.

CHAIR—Who is saying that?

Mr Moylan—The Industry Commission. It does not speak for the government but, in its stocktake on micro-economic reform, it is spoiling to have a go at Australia Post, and their access regime is subject to review by the Australian Competition and Consumer Commission.

Ms Nicholls—Exactly the same thing is happening in my area of higher education: without really any reference to anybody, the department concerned that I mentioned before is preparing a discussion paper. In this discussion paper, the department is not simply looking—to illustrate one of Peter Moylan's earlier points—at the areas in which universities are currently engaged in commercial activity: for example, in the provision of education to overseas students or cafeteria services or bookshops for students. It is also looking

at what was called, in the old language, the 'core business' of higher education: the provision of undergraduate and postgraduate courses with Commonwealth funding.

Without any reference whatsoever to public interest principles or criteria, and without any reference to anybody, a paper has been drawn up which says that the issues of who should have access to Commonwealth funds to provide higher education and the regulation of entry to the market of 'new'—read 'private'—providers of higher education have now been referred to the review of higher education, financing and policy, which was announced in January by the government and which will be subject to recommendations by that review. It would appear, however, that the department is of its own volition proposing to the minister that the core areas of university provision should be opened up to private provision through a range of legislative means, by alterations to the Higher Education Funding Act and so on.

This is a case where, clearly, public interest concerns—particularly those relating to things like equity, but also a whole range of other things also; and efficiency would be another one that you might want to mention—are being bypassed entirely. Certainly, George Gear's second reading speech undertakings in relation to education, health and welfare are being breached.

CHAIR—According to the bit that you put in your submission, George Gear's words were that, in such areas 'where the public sector has, and will continue to have, a dominant role, the relevance of competition policy is limited to those circumstances where enterprises engage in business activity.' In tertiary education, with the increasing exporting of the services, or the use of them—however we want to term it—by bringing in overseas students and taking education overseas, is that not becoming more of a business activity?

Ms Nicholls—Yes, it is; but that activity is entirely quarantined, by legislation, from the public provision of publicly funded higher education to Australian students. Overseas students are beyond the quota of enrolments of Australian resident students in institutions; they are quite supernumerary to the planning and the calculations of student load that is funded by the Commonwealth. They are regarded quite separately; and, as I said, they are quite tightly regulated in terms of the provisions which relate to the level of fees which can be charged, and so on. They are not part of the overall Commonwealth planning process.

It is quite simple to make a clear conceptual and policy and legislative distinction between the commercial activities of providing education to overseas students, on the one hand, and the provision of education to Australian resident students through publicly funded HECS-related places, on the other. The fact that often they are taught in the same classes is not really relevant to the issue.

Mr CAUSLEY—Theoretically, isn't that income for the university, which then allows it to provide services to Australian students?

Ms Nicholls—Yes, it is; but I do not see how that is relevant.

Mr CAUSLEY—It is income they earn which is away from government.

Ms Nicholls—That is right; it is.

Mr CAUSLEY—Therefore, it should allow them to provide extra services to Australian students.

Ms Nicholls—I am not saying there are no connections between the two, or that one is undesirable or anything like that. I am simply saying that you cannot argue that the provision of higher education to Australian resident students, which is quite quarantined off in legislation from the commercial provision particularly of undergraduate education, is a commercial activity. The fact exists that commercially based education is provided to overseas students; but that fact cannot be used to justify saying that the core activities of higher education institutions are, indeed, commercial. They are not. The core activities are the provision of public services, publicly funded by the Commonwealth.

Dr SOUTHCOTT—What about if courses are allowed to have Australian students who do not get in paying up-front fees?

Ms Nicholls—I think that has been a policy decision of the government which does undermine the integrity of the core business of universities. My union is on record as having said that. I think it is going to raise very serious policy problems for the government, but that is only going to be the case if the department is not stopped from this headlong rush into basically opening up the entire sector to competition holus-bolus anyway.

Mr CAUSLEY—If the universities are not forced to get into the modern world and be dynamic, they will probably end up like Sydney University and UNE in New South Wales.

Ms Nicholls—Universities already earn nearly half of their income from extra Commonwealth sources.

Mr CAUSLEY—Sydney University has not got a great reputation around the place because it stuck its head in the sand and did not get into the modern world.

Ms Nicholls—I do not know that we need to have that argument, I do not want to comment on individual universities. All I can say is that universities earn a large amount of their money from commercial sources, and they are in the modern world. The question that I was addressing, though, was the question about their particular role in relation to the provision of a public service—that is, the education of undergraduate and postgraduate students that is publicly funded and publicly accountable. I think that it is important to make that conceptual distinction, despite the cross-fertilisation that goes on between the various activities of universities.

Mr MUTCH—That is what this is all about, is it not? Where these principles can be applied equitably, they will be.

Ms Nicholls—Yes.

Mr MUTCH—Have you taken up the offer of Ed Willett to meet with you following this exchange of letters?

Mr Moylan—No, we have met with Mr Willett before. When I got his last letter, I thought of this committee. He was saying to me in his letter, 'You are raising matters to do with weighing of competition against other objectives. I cannot do that.' That is what he is saying in the letter. I thought about that and I think that is right, I did not elect Mr Willett to be involved in that business. The government might have appointed him to see that the agreement is given affect, in terms of the appropriate requirements adhered to by the states. But given that that seemed to be the view out of the council that they were permissive about government's application of the requirements under the agreement, in terms of ecology or social welfare and equity—and that is what he is saying, 'It is not our business, it is not the council's business'—I did not know where the discussion would go.

Mr MUTCH—It would have looked as if there had been a fly on the wall if you had.

Mr Moylan—We had had previous discussions with Mr Willett. We have got no objection to talking to him. But on these matters, we are being told it is beyond his council's capacity to deal with it. And there is some truth in that they are matters, fundamentally, for politicians. Why you are elected, partly, is to weigh competition against ecologically sustainable development, social welfare, equity, et cetera. But I think what Mr Willett should be doing, when he gets the plans from the states, is to ask what evidence does the program for regulation review show that the government, in deciding that it will review these pieces of legislation to do with the environment, consumer welfare or occupational safety and health, has had regard, as obliged to do, to these objectives.

Mr MUTCH—In some respects, you are also saying that, if they examined whether the governments had considered, in the relevant and appropriate way, these equitable or community service obligations in the decision making process, you would also be able to examine better whether the governments are just being recalcitrant. For instance, there are accusations that the New South Wales government has basically thrown up its hands and is not bothering with competitive neutrality at local government level. They could be doing that for very good social and equitable reasons, but the competition council perhaps could be stating that.

Mr Moylan—It is interesting you raise community service obligations, because Mr Willett puts out this book and says, in terms of the things he wants to pursue, 'Specifically the funding of CSOs via cross subsidies depending on restrictions to competition need to remain a central focus.' That is, it is not something he likes. You would all be aware that the agreement, which he is responsible for administering, says that CSOs are matters to be taken into account. You will be aware of Mr Gear's undertaking, in his second reading speech, that the competition policy does not involve the removal or reduction of community service obligations. But this organisation charged with implementing this agreement has gone off on its own way.

Mr ALBANESE—Can you give any practical examples, full toss here basically, in terms of what you would like to put on the record of areas where the implementation of national competition policy are not meeting the public interest grounds, apart from what we have heard about education?

Mr Moylan—I think you have to separate things out. In the states, a number of things which the government does, or governments do, are to put something down into national competition policy—in my view, often incorrectly. For example, if they want to contract out a library service somewhere and people go to the local council and say, 'Don't do that,' they say, 'Sorry, we have to. Paul Keating said that we have to

under the national competition agreement.' There is nothing in this agreement that the shire of so-and-so will contract out its library services, or that the Premier wants to have a crack at the Auditor-General and he says, 'I have to do this under the national competition agreement that Keating made me sign.' So there are those bizarre instances—

Mr ALBANESE—No, what you are identifying are instances. You are not saying that that is a bad impact. You are not necessarily making a case for why that is bad. To take that example, why is it bad that the library is being contracted out, if it is still running just as well?

Mr Moylan—We have put, for the information of the committee, a separate document which is our analysis of the Industry Commission's report on contracting out and competitive tendering. I myself do not believe that the competition policy is a basis for expansion of competitive tendering. There is nothing in this agreement that says—

CHAIR—It is a separate issue—

Mr Moylan—Except Mr Willett and his friends. They say that opening service provision to competitive tender is clearly one means governments might adopt to satisfy the requirements of the competition principles agreement. Well, he has linked it. In terms of the general argument about the contracting down and competitive tendering, we have gone through a number of arguments to do with impact on accountability, on service delivery standards, on employment conditions, on access of citizens to protection such as freedom of information and privacy legislation. We have gone through those in great detail with the Industry Commission—not with great impact, but we have put this other document out which is available for the committee.

Mr WILTON—You mentioned in your opening submission, Mr Moylan, that you did not think that the NCC's processes were in any way transparent, despite the fact that the report claims that they would be. In what ways are they not transparent? Can you elaborate on that lack of transparency?

Mr Moylan—Mr Daniels, the president, has indicated that, in his view, the best approach is softly, softly—to talk to the states in secrecy. As you pointed out, we at least are an organisation which is able to go and talk to him. But in comparison, say, to the parallel body of the Australian Competition and Consumer Commission, the organisation of Alan Fels is much more structured in its communication with the community. For example, they have a consultative forum to which we and various business and consumer groups go. We sit with Professor Fels and his colleagues and talk about developments before his commission, including aspects to do with national competition policy.

The National Competition Council have put out this documentation without consultation. They issue the documentation, which in my view is incorrect documentation. They are unwilling to specify, as reflected in the correspondence with Mr Daniels and with Mr Willett, how they are proceeding to take account of the public interest factors. They have seen themselves as exhorters to competition policy rather than people who can give objective and thorough advice on the matter.

Mr CAUSLEY—Yet they are going to assess shortly what the states have earned, if you like, in

credits. I am not aware—I do not know whether anyone else is aware—of what criteria they are going to use to assess this. Have you heard anything?

Mr Moylan—No. The word around town is that they do not want to fight the states so they will give them the money. Someone was saying that they might moan about the Queenslanders and sugar—they are bound to do that sort of thing. In this latest report they have said that they are concerned that some states are seeking exemptions, that some states are not looking at matters which have the major impact on the economy. So we will wait and see. I have not heard anything from them to say, 'We are not going to give the money to this state because it is not taking account of community service obligations.' I have never heard that, from them or anyone else. The betting—you guys might know better than me—is that—

CHAIR—You made a very provocative statement there and I just wondered what the basis of it is. You talked about the handing out of the money. You said that the NCC would be handing it out—

Mr Moylan—Yes, it would be recommending to the Commonwealth government that—

CHAIR—Without seeing any results.

Mr CAUSLEY—Surely this is the ultimate carrot, to say, 'If you do not comply with our high ideals and competition we are not going to give you any money.'

Mr Moylan—I base that upon talking to various people who have an interest in this matter. My concern is that the council should be a body accountable to the parliament and to the community and should be transparent in outlining the framework which it will use in developing its recommendations to the Commonwealth government about the provision of money. I, obviously, from our argument and from the agreement, would have liked the council to put out something to say, 'In looking at whether you states get money, we will be looking at whether you have met your obligations as follows under the agreements—here, there and the other way.' On the contrary, as I have said, I am concerned that they are watering down those matters in their own documentation.

Mr MUTCH—Surely they are pretty straightforward in what they are going to be expecting. Are they not basically technicians who are wanting to make some assessments and then it is up to the governments to argue the case? In a sense, are they not saying, 'We will look at it and see whether competition has been introduced and note that it has or it has not'? It is then up to the governments that are responsible for the introduction of these things to argue the political case. If the federal government was going to withdraw funds or withhold funds from New South Wales on the basis that they did not apply all the competition principles here, surely that would become a political debate in the community. It is not going to happen without a huge debate. So are they not just being public servants, in the sense that they are standing back from the political argument? It is a fair approach, on the face of it.

Mr Moylan—No, it is not, because they are pretending that what you and I might see as ultimately a political question is what you have also described as a technical question, that they are technicians. They are claiming that their role is to give advice to government on the implementation of the agreement.

The way you have put it is probably right. They will write reports saying whether governments have

provided a list of legislation to be reviewed, for example. They will not go to the point, I expect, without a bit of help from your committee, of saying, 'We got this list from state X of legislation to be reviewed, but we had no evidence that that state had taken account of the impact on consumers, on CSOs, et cetera, in developing that list, so we sent it back. We have now sent out a framework to that government by which, in respect of these pieces of legislation, we want them to report what regard they paid to government policies relating to ecological sustainable development in recommending the repeal of this act; what regard they paid to social welfare and equity considerations, including community service obligations, in recommending the repeal of that act; how the course of action would see it proposing in lieu of the current legislation will impact on government legislation and policies, social welfare et cetera.'

By their letter to me it is too hard, but that is the obligation under the agreement. You do not get the money for repealing legislation per se. It is not what the agreement—

Mr CAUSLEY—These are the so-called benefits that were identified by Hilmer. That is what the argument was about. Hilmer identified a certain $X billion worth of benefits to the community and the states said, 'Hey, wait a while. Part of that is ours.' Therefore that was going to be the payments back to the states when they identified what savings they made in their areas.

Mr Moylan—Professor Hilmer really did not identify the savings. It was our friends in the Industry Commission, who do not speak for the government, who said that there would be the 5.4 per cent increase in GDP if you implemented this. If Professor Quiggin has been before you, he has probably told you that his judgment is that it is about 0.5 per cent, and that the Industry Commission's calculation of it—in the case of Australia Post, say—adds in all productivity increases back to the corporatisation in 1975 of Australia Post, et cetera. States might say that they have a claim to revenue from the Commonwealth, but their claim needs to be based upon adhering to the agreement—that is, reporting the impact on ecologically sustainable development, et cetera, of their actions and demonstrating that they took those matters into account in developing whatever it is, their access regime or their regulation review schedule.

Mr CAUSLEY—Surely those benefits are in the state budgets, under the CSOs that are provided and shown clearly as payments that are made or in the funding of national parks or recovery plans—well, that is more federal. But in those areas surely that is there and identified very clearly in the budgets. Whether it is enough I suppose you could argue.

Mr Moylan—In terms of the benefits, I remember Quiggin's article in the *Financial Review*, in which he had divided the billions that the Industry Commission said would come in as being $2,000 per head for each of us. His advice was not to spend on a holiday yet. The money was not in hand and the money will not be in hand. What the governments have to demonstrate is that the course of actions that they are undertaking under national competition policy is consistent with these public interest obligations.

CHAIR—Mr Wilton has got one last question, I think.

Mr WILTON—Are there any areas where the application of competition policy is merely to what might loosely be defined as its community service obligations? Are there any areas where you are happy with what is going on in CSO terms?

Mr Moylan—About changes in competition policy?

Mr WILTON—Yes.

Mr Moylan—The initial thrust of wanting to develop a more national approach to the trade practices type regulations is useful. We are basically one nation of people and support that. What has happened is that, on top of that, you had Hilmer which has taken it further and then you had a committee of government officials, with Ken Baxter, Roger Beale and others, who have injected the regulation review and competitive neutrality principles et cetera, which have taken it much further again into a view of the role of government. Then, in turn, you had my friends the National Competition Council with their documentation taking it further away. So you have had a stage of developments of people piggy-backing onto what might be called competition policy to promote a view about community service obligations or the role of the public education system.

Mr CAUSLEY—But there has been some benefit to consumers, haven't there? For example, there is cheaper electricity in the states and debts have been paid off.

Mr Moylan—I have read Quiggin's analysis, for example. If you take electricity, in this state we have not had benefits as electricity consumers. We have had very good assets sold out from us. But in—

Mr CAUSLEY—To pay off debt, wasn't it?

Mr Moylan—Yes, but we have lost the revenues, which we could have used to pay—

Mr CAUSLEY—You cannot have it both ways, though.

Mr Moylan—We could have used it to pay off the debt. But even in telecommunications, which is an area where people said there was scope for greater deregulation, the productivity increase has not moved away from the previous trend with the bringing into being of the second operator, Optus. In fact, you can look at that and say, 'It is very efficient, isn't it, to have competition by having them chase each other up and down the streets digging their channels?'

Mr CAUSLEY—We discussed that this morning.

Mr Moylan—There are important benefits. But electricity is a very interesting case. Having heard people invoke and argue separation of the generators and distribution in the electricity as being a competitive measure, private owners are now saying, 'We shouldn't be restricted from having total business activities.'

Mr CAUSLEY—In the distribution area as well?

Mr Moylan—Yes, they want to be able to expand their activities. You get a lot of these biases—and this will be my last shot at the Industry Commission. In their stock take on micro-economic reform they say that if Telstra is privatised there is no need to worry about it, but if it is to remain in government hands you break it up. That is an ideological position about public ownership. It has got nothing to do with competition.

CHAIR—I do not think we will have a big debate on that today. Can I thank you all very much for coming today. We greatly appreciate it.

Resolved (on motion by Mr Albanese, seconded by Mr Causley):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

Committee adjourned at 2.56 p.m.