



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

ECONOMICS LEGISLATION COMMITTEE

ESTIMATES

**(Supplementary Budget Estimates)**

THURSDAY, 22 OCTOBER 2009

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE ECONOMICS**  
**LEGISLATION COMMITTEE**  
**Thursday, 22 October 2009**

**Members:** Senator Hurley (*Chair*), Senator Eggleston (*Deputy Chair*), Senators Cameron, Joyce, Pratt and Xenophon

**Participating members:** Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Kroger, Ludlam, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Ronaldson, Ryan, Scullion, Siewert, Sterle, Troeth, Trood, Williams and Wortley

**Senators in attendance:** Senators Abetz, Boswell, Bushby, Cameron, Coonan, Colbeck, Eggleston, Hurley, Joyce, Ludlam, Parry, Pratt and Xenophon

**Committee met at 9.01 am**

**TREASURY PORTFOLIO**  
**In Attendance**

Senator Sherry, Assistant Treasurer

**Department of the Treasury**

Dr Ken Henry AC, Secretary

**Outcome 1—Sound macroeconomic environment**

**Output Group 1.1 Macroeconomic group**

Dr David Gruen, Executive Director

Mr Tony McDonald, General Manager, Macroeconomic Policy Division

Dr Steve Morling, General Manager, Domestic Economy Division

Mr Adam McKissack, Principal Adviser – Forecasting, Domestic Economy Division

Mr Paul Flanagan, General Manager, International Finance Division

Mr Bill Brummitt, General Manager, International Economy Division

Mr Kevin Playford, Manager, International Finance Division

Ms Meghan Quinn, General Manager, Macroeconomic Modelling Division

**Outcome 2—Effective government spending arrangements**

**Output Group 2.1 Fiscal group**

Mr Nigel Ray, Executive Director

Mr Paul McBride, Manager, Social Policy Division

Mr Peter Robinson, Principal Adviser, Social Policy Division

Mr Steve French, General Manager, Industry, Environment and Defence Division

Mr Hector Thompson, Acting Principal Adviser, Industry, Environment and Defence Division

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Ms Natalie Horvat, Manager, Industry, Environment and Defence Division  
Ms Kirsty Laurie, Senior Adviser, Industry, Environment and Defence Division  
Mr Scott Rogers, Senior Adviser, Industry, Environment and Defence Division  
Mr Kurt Hockey, Manager, Industry, Environment and Defence Division  
Ms Penny Sirault, Manager, Industry, Environment and Defence Division  
Mr Russ Campbell, Principal Adviser, Industry, Environment and Defence Division  
Ms Jan Harris, General Manager, Budget Policy Division  
Ms Sue Vroombout, General Manager, Commonwealth-State Relations Division  
Ms Deidre Gerathy, General Manager, Corporate Services Group

**Outcome 3—Effective taxation and retirement income arrangements**

**Output Group 3.1 Revenue group**

Mr David Parker, Executive Director  
Ms Maryanne Mrakovcic, General Manager, Tax Analysis Division  
Mr Phil Gallagher, Manager, Tax Analysis Division  
Mr Colin Brown, Manager, Tax Analysis Division  
Mr Damien White, Manager, Tax Analysis Division  
Mr Marty Robinson, Manager, Tax Analysis Division  
Mr Paul McCullough, General Manager, Business Tax Division  
Mr Matthew Flavel, Manager, Business Tax Division  
Mr Michael Willcock, General Manager, Personal and Retirement Income Division  
Mr Trevor Thomas, Principal Adviser, Personal and Retirement Income Division  
Mr Mark O'Connor, Principal Adviser, Personal and Retirement Income Division  
Mr Mike Rawstron, General Manager, Indirect Tax and Treaties Division  
Ms Christine Barron, Secretary, Board of Taxation and General Manager, Indirect Tax Division  
Mr John Lonsdale, Adviser, Australia's Future Tax System  
Mr Rob Heferen, General Manager, Australia's Future Tax System

**Outcome 4—Well functioning markets**

**Output Group 4.1 Markets group**

Mr Jim Murphy, Executive Director  
Mr Richard Murray, Executive Director, Policy Coordination and Governance  
Mr Geoff Miller, General Manager, Corporations and Financial Services Division  
Ms Marian Kljakovic, Manager, Corporations and Financial Services Division  
Mr Michael Lim, Acting Manager, Corporations and Financial Services Division  
Ms Alix Gallo, Manager, Corporations and Financial Services Division  
Ms Kate Preston, Manager, Corporations and Financial Services Division  
Mr Les Pascoe, Acting Manager, Corporations and Financial Services Division  
Mr Patrick Colmer, General Manager, Foreign Investment and Trade Policy Division  
Mr David Martine, General Manager, Financial Systems Division  
Mr Roger Brake, Manager, Financial System Division  
Ms Jacky Rowbotham, Manager, Financial System Division  
Mr Justin Douglas, Manager, Financial System Division  
Ms Vicki Wilkinson, Manager, Financial Systems Division  
Ms Kanwaljit Kaur, Manager, Financial System Division

Mr Trevor King, Manager, Financial System Division  
Ms Kerstin Wijewardene, Manager, Financial System Division  
Dr Steven Kennedy, General Manager, Competition and Consumer Policy Division  
Mr Brad Archer, Manager, Competition and Consumer Policy Division  
Mr Kim Salisbury, Senior Adviser, Competition and Consumer Policy Division  
Mr Paul Madden, Program Director, Standard Business Reporting  
Mr Greg Divall, Program Manager, Standard Business Reporting  
Mr Peter Martin, Australian Government Actuary

**Australian Bureau of Statistics**

Mr Brian Pink, Australian Statistician  
Mr Peter Harper, Deputy Australian Statistician, Population, Labour, Industry and Environment Statistics Group  
Mr Trevor Sutton, Deputy Australian Statistician, Social Statistics Group  
Ms Gillian Nicoll, Acting First Assistant Statistician, Corporate Services Division  
Mr Paul Lowe, Assistant Statistician, Population Census Branch  
Mr Michael Belcher, Chief Financial Officer  
Ms Denise Carlton, Acting Assistant Statistician, Office of the Statistician  
Ms Heather Jones, Acting Assistant Statistician, Human Resources Branch  
Mr Ian Ewing, Deputy Australian Statistician, Macroeconomics and Integration Division

**Australian Competition and Consumer Commission**

Mr Graeme Samuel, Chairman  
Mr Brian Cassidy, Chief Executive Officer  
Mr Scott Gregson, General Manager, Enforcement Operations  
Mr Nigel Ridgway, General Manager, Compliance, Research, Outreach and Product Safety  
Mr Marcus Bezzi, Executive General Manager, Regulatory Affairs Division  
Mr Mark Pearson, Executive General Manager, Regulatory Affairs Division  
Mr Tim Grimwade, Acting Executive General Manager, Enforcement and Compliance Division  
Ms Helen Lu, General Manager, Corporate Branch  
Mr Adrian Brocklehurst, Chief Financial Officer  
Mr Richard Chadwick, General Manager, Adjudication Branch  
Mr Chris Pattas, General Manager, Network Regulation South, Australian Energy Regulator  
Mr Peter Betson, Acting General Manager, Water  
Mr Sean Riordan, Acting General Manager, Strategic Analysis and Development

**Australian Office of Financial Management**

Mr Michael Bath, Director, Financial Risk  
Mr Gerald Dodgson, Head of Treasury Services  
Mr Andrew Johnson, Head of Compliance and Reporting  
Mr Pat Raccosta, Chief Finance Officer

**Australian Prudential Regulation Authority**

Dr John Laker, Chairman  
Mr Ross Jones, Deputy Chairman  
Mr Charles Littrell - Executive General Manager Policy, Research and Statistics

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Mr Keith Chapman, Executive General Manager, Supervisory Support

**Australian Taxation Office**

Mr Michael D'Ascenzo, Commissioner of Taxation

Mr David Butler, Second Commissioner

Mr Bruce Quigley, Second Commissioner

Mr Mark Konza, Deputy Commissioner, Small and Medium Enterprises

Ms Raelene Vivian, Chief Operating Officer

Mr Neil Olesen, Deputy Commissioner, Superannuation

Mr Robert Ravello, Chief Finance Officer

**Australian Securities and Investment Commission**

Mr Tony D'Aloisio, Chairman

Ms Belinda Gibson, Commissioner

Dr Peter Boxall AO, Commissioner

Mr Justin Owen, Manager – Government Relations

Mr Stephen Woodhill, Senior Executive Leader, Corporate Affairs

Mr Malcolm Rodgers, Senior Executive Leader, Strategy

Mr Barton Hoyle, Research Adviser to the Commissioner

**Productivity Commission**

Mr Gary Banks AO, Chairman

Mr Bernie Wonder, Head of Office

Dr Michael Kirby, First Assistant Commissioner

Mr Terry O'Brien, First Assistant Commissioner

**CHAIR (Senator Hurley)**—I declare open this public hearing of the Senate Economics Legislation Committee. The Senate has referred to the committee the particulars of proposed expenditure for 2009-10 and related documents for the Innovation, Industry, Science and Research, Resources and Energy, Tourism and Treasury portfolios. The committee has set Friday 11 December 2009 as the date by which answers to questions on notice are to be returned. Under standing order 26 the committee must take all evidence in public session. This includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, the secretariat has copies of the rules.

In particular, I draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised and which I now incorporate in *Hansard*.

*The extract read as follows—*

**Public interest immunity claims**

That the Senate—

- (a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;
- (b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;



- (c) orders that the following operate as an order of continuing effect:
- (1) If:
    - (a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and
    - (b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.
  - (2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.
  - (3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.
  - (4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.
  - (5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.
  - (6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.
  - (7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).
  - (8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(Extract, Senate Standing Orders, pp 124-125)

Officers called upon for the first time to answer a question should state their name and position for the *Hansard* and witnesses should speak clearly into the microphone. Please make sure all mobile phones are turned off or switched to silent.

The committee will begin today's consideration of the Treasury portfolio with the Fiscal Group of the department and will then follow the order as set out in the circulated program. I welcome Senator Sherry, representing the Treasurer, and officers of the department. Minister or officers, would you like to make an opening statement?

**Senator Sherry**—I do not.

**Mr Ray**—No, thank you.

**CHAIR**—We will start with questions from Senator Joyce.

**Senator JOYCE**—Have you been enlightened in any way, shape or form as to how the current process of the Henry review is proceeding? What has been your engagement in that process?

**Mr Ray**—Dr Henry was here last night.

**Senator JOYCE**—I know he was, but unfortunately he is not here today. Today is Fiscal and Revenue, so I am asking you.

**Mr Ray**—It might be better to ask Revenue Group.

**Senator JOYCE**—Have you had any engagement in the process whatsoever?

**Mr Ray**—Yes.

**Senator JOYCE**—What has been the involvement of your engagement?

**Mr Ray**—Officers in Fiscal Group have been consulted on various elements of the work that has been undertaken by the secretariat to the review.

**Senator JOYCE**—Can you expand on that at all?

**Mr Ray**—I do not think so, in the sense that it is a review that is in process. As you know, it is due to provide its report to the government by the end of the year.

**Senator JOYCE**—Who are the main officers in your department engaged in the Henry review?

**Mr Ray**—The secretariat is headed by Mr Heferen, who is located in Revenue Group. It would be best to direct your questions to Revenue Group.

**Senator JOYCE**—Apart from Mr Heferen, there is no-one here who has been involved with the process?

**Mr Ray**—There are people here who have been engaged from time to time but the centre of the process is in Revenue Group.

**Senator JOYCE**—The Revenue Group are following you. What are the implications of Fiscal Group for the Henry tax review?

**Mr Ray**—The tax review is looking into the whole of the tax and transfer system. That clearly has wide social policy implications, so it is mainly to do with officers in Social Policy Division. If you think about the tax system and state taxes, Ms Vroombout's Commonwealth State Relations Division has a direct interest.

**Senator JOYCE**—Are there any implication for state debts, the repayment of state debts and the capacity of states to repay those debts for the Henry tax review? What is the way forward between federal and state relations pertaining to the current position of state debts and the current capacity of the states to repay those debts? Seeing we have underwritten them, they are now part of our problem as well.

**Mr Ray**—If you want to talk about the work of the tax review you should ask the tax review people directly.

**Senator JOYCE**—Have you been informed of the extent of the current state debt?

**Mr Ray**—I think we published numbers on state debt in Budget Paper No. 3. Ms Vroombout may have that for you.

**Ms Vroombout**—The estimate out of state budgets for their aggregate debt for 2009-10 is around \$170 billion.

**Senator JOYCE**—Is that aggregate or gross?

**Ms Vroombout**—Aggregate. Their net debt is \$107 billion for the same period.

**Senator JOYCE**—To be honest, that is under what I have been told before. The point is that we can never get to the bottom of this. Can you give me a break-up of that \$107 billion?

**Ms Vroombout**—I do not have that in front of me, so I would have to take that on notice.

**Senator JOYCE**—Do you have any knowledge as to how the numbers are made up? I know that for Queensland it is about \$85 billion—is that correct?

**Ms Vroombout**—They are derived from state budgets.

**Senator JOYCE**—Are they current?

**Ms Vroombout**—No, they are the state estimates for 2009-10 as outlined in their budgets.

**Senator JOYCE**—I have been informed that it was about \$85 billion for Queensland. I am just doing this from memory. It is about \$75 billion for New South Wales. That totals \$160 billion. There is also approximately \$40 billion for Victoria, so you are up to \$200 billion. You then have South Australia, Northern Territory and Tasmania. It ends up at about \$235 billion. I am trying to work out how we ended up with \$170 billion, unless they have started paying some of the money off.

**Ms Vroombout**—I would have to take that on notice. I do not have the numbers and how they are divided between the jurisdictions in front of me.

**Senator JOYCE**—Where did you get your numbers from?

**Ms Vroombout**—They were derived from state budgets.

**Senator JOYCE**—State budgets as of?

**Ms Vroombout**—The 2009-10 budgets.

**Senator JOYCE**—Are they current or projected?

**Ms Vroombout**—They are estimates for 2009-10.

**Senator JOYCE**—Have you done any further empirical ascertainment of those figures to find out exactly where they are?

**Ms Vroombout**—No, we have not.

**Senator JOYCE**—The federal government has underwritten that debt, has it not?

**Ms Vroombout**—That is to the extent that states have applied to have it guaranteed by the Commonwealth. Only two jurisdictions have done that, to date: New South Wales and Queensland.

**Senator JOYCE**—We are vaguely right there. I know that Queensland is about \$85 billion and New South Wales is about \$75 billion. How much of that \$170 billion has the federal government actually underwritten?

**Ms Vroombout**—Neither Queensland nor New South Wales have applied to guarantee all of their debt. They have chosen particular bond lines to guarantee. As at 30 September the total amount guaranteed by the Commonwealth was \$57.5 billion.

**Senator JOYCE**—Is that \$57.5 billion that the Commonwealth has guaranteed predominantly to Queensland or predominantly to New South Wales?

**Ms Vroombout**—New South Wales is \$17.9 billion and Queensland is \$39.6 billion.

**Senator JOYCE**—In your analysis of this underwriting of the debt, what is the cost of funds that you are putting on that for that debt? In your fiscal analysis you would have to put something.

**Mr Ray**—We charge them a fee.

**Senator JOYCE**—What is their cost of funds? Do you do any further analysis on what their cost of funds are, what the actual position of the state is and how it is going? You charge them a fee so you must have done some analysis on how you think they are going.

**Ms Vroombout**—I can talk a little about how we arrived at the fee and how it is structured. The fee for new issues is 30 basis points and the fee for existing issues is 15 basis points. That 30 basis points was derived as the historic spread between state semi-government securities and Commonwealth government securities.

**Senator JOYCE**—Did you do any risk analysis on the debt in coming up with the fee basis?

**Mr Ray**—In the statement of risks in the budget papers the risk is remote and unquantifiable.

**Ms Vroombout**—The other point to make is that I have outlined the fees for a AAA rated state. There are higher fees for AA+ rated states, so they are charged a 35 basis point fee for new issues and a 20 basis point fee for existing stock. There is an acknowledgement of differences between jurisdictions based on their credit rating.

**Senator JOYCE**—Have New South Wales or Queensland shown the capacity to repay any of that or is their debt currently still in extension?

**Ms Vroombout**—I am not aware of any default by either jurisdiction on their debt.

**Senator JOYCE**—I can just capitalise my interest; it is not a matter of defaulting. Is the trajectory of their debt increasing or decreasing?

**Mr Ray**—I do not think that we have got the numbers with us, but we can have a look at that for you to see what we can provide. We publish historical numbers in the budget papers, but we can take that on notice.

**Senator JOYCE**—Now we are looking at the basis points in this, are you involved in the banking guarantee?

**Mr Ray**—That is Markets Group.

**Senator JOYCE**—What is the tenure of this exposure to state government debts? Does it come to a conclusion? Is it renewable or is in perpetuity?

**Ms Vroombout**—In the design of the guarantee, the guarantee is available for state debt up to maturities of 15 years.

**Senator JOYCE**—Do they have the capacity to extend their exposure to you in that 15 years?

**Ms Vroombout**—The limit on the maturity of the security that they can apply for a guarantee over is 15 years.

**Senator JOYCE**—Can they come back to you and ask to extend the guarantee—for instance, for Queensland from \$13.6 billion? Can they say, ‘Things are getting tough. I want to extend it to \$85 billion’?

**Ms Vroombout**—They can seek to apply for guarantee over further securities.

**Senator JOYCE**—They can seek to apply?

**Ms Vroombout**—Yes.

**Senator JOYCE**—Who is responsible for the application process and who assesses that application process?

**Ms Vroombout**—The Reserve Bank is the administrator of the state guarantee scheme.

**Senator JOYCE**—Is anybody from Fiscal Group involved with that assessment process?

**Ms Vroombout**—No. It is handled by the Reserve Bank, but we receive reports from the Reserve Bank on a monthly basis.

**Senator JOYCE**—The Reserve Bank does the approval and you pick up the tab?

**Ms Vroombout**—If the Reserve Bank is responsible for issuing the eligibility certificates.

**Senator JOYCE**—At this point in time, what is the total amount of debts that the government is now responsible for, both underwritten and Australian government securities outstanding? What is the total amount? If we put it all in the corner of the room how much are we looking at for our gross debt, the stuff that we have underwritten for the states and any other liabilities that are out there?

**Mr Ray**—I might try to help you with that. We have issued bonds this week so this is not quite up to date. As at 16 October, there was \$109.2 billion of CGS outstanding and \$12.2 billion of Treasury notes.

**Senator JOYCE**—As well as \$12.2 billion of Treasury notes?

**Mr Ray**—Yes. As Ms Vroombout has already told you, we have guaranteed \$57.5 billion of state debt.

**Senator JOYCE**—We are roughly at \$121 billion. We have guaranteed \$121 billion, so we are looking at around about \$180 billion—is that right?

**Mr Ray**—If you add those numbers up, yes.

**Senator JOYCE**—\$180 billion?

**Mr Ray**—Yes.

**Senator JOYCE**—What is the yield rate that we are currently paying?

**Mr Ray**—That is historical. I do not have what our historical average cost of funds is. We are not paying any yield on the state debt.

**Senator JOYCE**—I understand that. What is on the federal?

**Mr Ray**—On the state debt we are receiving a fee.

**Senator JOYCE**—Yes, I understand that. What is the yield on the issuance of bonds and notes?

**Mr Ray**—This is not the stock; this is the flow. Since the budget the average yield is around 4.5 per cent.

**Senator JOYCE**—Is it going up?

**Mr Ray**—It fluctuates. Since the budget the average yield to maturity has risen and that has happened globally.

**Senator JOYCE**—Are we meeting our interest payments as and when they fall due or are we issuing new notes to pay the interest payment?

**Mr Ray**—We are issuing new debt to fund the overall budget position. We are also issuing new debt to fund things like the RMBS program.

**Senator JOYCE**—Are you getting any feedback on how our bills and notes are being rated on the market? Can you give us an example of what countries are in front of us and what countries are behind us?

**Mr Ray**—The way these things tend to be looked at is what the coverage ratio is. Since the budget, the average coverage ratio has been 4.3. That suggests that the issues are well received.

**Senator JOYCE**—In Budget Paper No. 1—which I have not got before me—at around about page 317 the long-term liability position is about \$509 billion. Can you give me in your words what the breakdown of that amount is?

**Mr Ray**—I am not quite sure I follow the question.

**Senator JOYCE**—If you go to assets and liabilities, just prior to the revenue page, you will find that it will have total liabilities for 2013-14 of \$509 billion, which is half a trillion. Can you give me in your own words what makes up that amount?

**Mr Ray**—If you look at Budget Statement No. 9 in Budget Paper No. 4, table 2 being the Australian government general government sectors' balance sheet, the liabilities are broken up there. Which year are you interested in?

**Senator JOYCE**—What is the most substantial liability in that?

**Mr Ray**—Government securities is the largest item.

**Senator JOYCE**—For how much?

**Mr Ray**—It is \$300.8 billion.

**Senator JOYCE**—Are we still on track for that \$300.8 billion debt?

**Mr Ray**—The government will release new numbers with the mid-year update.

**Senator JOYCE**—Have they advised you as to whether that forecast is still pertinent?

**Mr Ray**—We advise them.

**Senator JOYCE**—You advise them as to whether that forecast is still pertinent. They might be about to do something that is going to cost a lot of money. They might have to advise you that it is impertinent.

**Senator Sherry**—Let us wait for the mid-year economic forecast and that will give you an update.

**Senator JOYCE**—There is a discrepancy between \$300.8 billion and the Treasurer's statement of \$315 billion. What makes up that \$7 billion?

**Mr Ray**—Which Treasurer's statement are you referring to?

**Senator JOYCE**—You just mentioned \$300.8 billion in your evidence. Mr Swan has mentioned \$315 billion. Where is the \$7 billion?

**Mr Ray**—I think it is about \$14 billion. That is the peak. You would remember in the budget we published the medium-term projections, which go out to 2019-20. I think what you are referring to is that the Treasurer was talking about the peak, which is in 2013-14. That is the next year on from the 2012-13.

**Senator Sherry**—Is it gross debt of \$315.4 billion?

**Mr Ray**—Yes. There are a number of things. One is that it is gross debt, not Commonwealth government securities.

**Senator JOYCE**—With the \$200 billion appropriation that is currently available to you—

**Mr Ray**—The cap on the issue, yes.

**Senator JOYCE**—Where are we on the trajectory for that? When do you believe that will be fully drawn?

**Mr Ray**—Again, I think you would need to wait for the mid-year outlook.

**Senator JOYCE**—Do you believe it is on track? Apart from mid-year, could you issue a statement in regard to how we are going with that \$200 billion debt?

**Mr Ray**—Yes. I think I told you that we have about \$109 billion or a bit more than that now. You could say \$110 billion, roughly, that is on issue at the moment.

**Senator JOYCE**—You have got a bit more than that. You have \$109.2 billion and then you have \$12.2 billion in notes, so between those you would have to have \$121 billion?

**Mr Ray**—It is something like that.

**Senator JOYCE**—You have \$121.4 billion, so you really have \$79 billion left up your sleeve, or a little less. Do you think that we are going to run out of money and will need to come back to parliament and ask for some more in the near future?

**Mr Ray**—In the near future, no. This all depends on the future course of the economy and the future course of the government's budget.

**Senator JOYCE**—This is the pertinent thing. Over \$121 billion of the \$200 billion is gone already. We started with \$21.6 billion of cash in the bank and even before the end of the first term of government we are up to \$121.4 billion in debt. Apart from that we have also underwritten \$57.5 billion, so we are \$170 billion out there.

**Mr Ray**—I do not think that is quite right.

**Senator JOYCE**—Are you going to tell me you are netting off debts? What are you netting them against?

**Mr Ray**—I think you will find that there was about \$58 billion of debt on issue.

**Senator Sherry**—when we took government in 2007. I have given you those figures in Senate question time on a number of occasions. It is not correct to say that there were no government securities on issue, in other words zero debt, when we came to government.

**Senator JOYCE**—What was the cash that was on hand at that same point in time?

**Mr Ray**—We can take that on notice.

**Senator JOYCE**—What are you netting the debt off against? One of the things you net the debt off against is HECS debt. How are you going collecting that and what is the current HECS debt?

**Mr Ray**—We will need to take that on notice.

**Senator Sherry**—Do you want a figure as of today or this week?

**Senator JOYCE**—Yes, the most recent figure that you have got. You can give me the most recent figure and a date. Are you taking that on notice?

**Senator Sherry**—Yes.

**Senator JOYCE**—What is the extension of debt? We are at \$121.4 billion now, with \$57.5 billion of state debt. That is \$178.9 billion that you are basically responsible for at a federal level. What is the trajectory of debt at the moment? What is the extension that we are currently running at per month?

**Mr Ray**—I am sorry?

**Senator JOYCE**—In the history of where you are with bills and notes at the moment, approximately how much are you adding per month to that debt? I want the history of it. You can say that it might change in the future. I want to know what we have been doing lately.

**Senator Sherry**—To calculate an average monthly figure, which I think is what you are after, we would have to take it on notice and give you a calculation.

**Mr Ray**—We have about two bond tenders a week.

**Senator JOYCE**—How much are the bond tenders going for?

**Mr Ray**—Half a billion dollars each.

**Senator JOYCE**—That is about \$1 billion a week.



**Mr Ray**—It varies. As you know, the Australian Office of Financial Management is responsible for the debt program.

**Senator JOYCE**—It is about \$1 billion a week, so roughly about \$4.2 billion extension a month. That is basically the trajectory that we are on.

**Mr Ray**—I need to go back because I misled you a little. The \$109.2 billion includes the Treasury notes outstanding.

**Senator JOYCE**—That includes the \$12.2 billion?

**Mr Ray**—Yes.

**Senator JOYCE**—That is better. What is \$12.2 billion amongst mates!

**Mr Ray**—If you look in the budget papers the projection was that at the end of June there would be \$133 billion of Treasury bonds outstanding.

**Senator JOYCE**—By the end of June?

**Mr Ray**—By the end of June 2010.

**Senator JOYCE**—We are at about \$110 billion now, so that only leaves you with a \$23 billion further extension between now and the end of June 2010. We are looking at eight months at \$4 billion a month. That is \$32 billion.

**Mr Ray**—Again, the AOFM can help you in detail, but they will not issue the same amount every week. Obviously, for example, they probably do not issue any at Christmas. They tend not to issue around some major announcements. The coupon dates for various bond loans matter for the issue and strategy. There are a number of things that the AOFM takes into account to determine when it issues and how much, so you would need to talk to them to get the detail. In general, the market has been absorbing up to \$1.4 billion a week of bonds plus notes.

**Senator JOYCE**—What is the unspent stimulus requirements that you will have to issue for bonds and notes? How much unspent stimulus is still there to be financed?

**Mr Ray**—As you know, the government's cash position varies throughout the course of the year. I do not have what the cash position is now. I think the best to think about what the stock of debt is at the end of a financial year and think about the aggregate financing requirement through the year. That is obviously financing the deficit, plus any refinancing requirement that we might have and also, at a gross level, the issuance that we need for maybe some asset accumulation—for example, the RMBS program.

**Senator JOYCE**—You have no imminent requirements to access funds for the stimulus. In your program you must have in mind the capacity to access funds to pay for the stimulus requirements that are imminent. You cannot wait until your cash position is right. You need it now.

**Mr Ray**—No. There are two financing requirements. There is the aggregate financing requirement, which in shorthand is the total requirement to issue, so it is the gross financing requirement to finance the deficit, any rollover of existing debt and any CGS that we need to issue for asset accumulation for balance sheet purposes not for the cash flow. That is the aggregate requirement. It is published in the budget where the balance sheet will be as at the

end of each financial year. The other reason that we issue debt is for within-year financing and that is really what the Treasury notes are for. That is determined by the daily cash balances that we have. As you would recall, there is a mismatch in timing of spending and tax receipts, so we need within-year financing to meet that cash need. That has always been there.

**Senator JOYCE**—When you talk about the financing of rollover bond requirements, that is basically in layman's terms the capitalisation of interest to roll over the bond, pay the interest and borrow more to do so.

**Mr Ray**—No, that is rolling over the capital, not the interest.

**Senator JOYCE**—Where does the interest come from?

**Mr Ray**—The interest is an element in the government's bottom line.

**Senator JOYCE**—If the extension of debt is greater than the interest you can ipso facto say, you are capitalising your interest.

**Mr Ray**—The interest is just one of the government's expenses. As you know, by historical standards our interest position is quite low.

**Senator JOYCE**—Have the Fiscal Group been looking at the implementation of the emissions trading scheme and the revenue implications of that?

**Mr Ray**—We have.

**Senator JOYCE**—Can you tell me about that? How much are we going to get in?

**Mr Ray**—Mr Campbell can help you with that.

**Mr Campbell**—In the update that was provided in the fact sheet on the Department of Climate Change website, the potential revenue from the sale of permits totals \$17.4 billion over the forward estimates.

**Senator JOYCE**—By what year and how long?

**Mr Campbell**—That is to the period 2012-13. That is the entire amount of the forward estimates and in the year 2012-13 it is \$12.9 billion.

**Senator JOYCE**—What was \$12.9 billion?

**Mr Campbell**—It is \$12.99 billion for the year 2012-13. That is the potential revenue from the sale.

**Senator JOYCE**—Where does the other \$5 billion come from?

**Mr Campbell**—That is for the year 2011-12.

**Senator JOYCE**—Are there any further projections after that of how much revenue you are bringing in?

**Mr Campbell**—No. Only the forward estimates period has been released publicly.

**Senator JOYCE**—Just the first two years?

**Mr Campbell**—Yes.

**Senator JOYCE**—What price are the permits at on that issue?

**Mr Campbell**—The price for the permit issuance would be \$10 in the first year. It is a fixed price permit. It is \$29 in 2012-13.

**Senator JOYCE**—If the government after that issues them at an increased price then is there an immense capacity to increase revenue?

**Mr Campbell**—Revenue will go up as the carbon price rises, but equally the value of the assistance measures to industry will also go up.

**Senator JOYCE**—Can you compare the revenue that we raised from ETS to the revenue we get from the GST or capital gains tax?

**Mr Campbell**—GST is just over \$40 billion. It would be fair enough to look at 2012-13.

**Senator JOYCE**—We are basically saying \$13 billion in 2012-13 from the ETS at a cap price of \$29.

**Ms Quinn**—It is not a cap.

**Senator JOYCE**—Capped at \$10 and then assumed at \$29. You are getting \$40 billion from GST in that year—is that correct?

**Mr Ray**—If you look at page 537, statement 5 in Budget Paper No. 1, table A1, the goods and services tax projected in 2012-13 is \$51.9 billion and the CPRS is \$13 billion.

**Senator JOYCE**—What about capital gains tax?

**Mr Ray**—Capital gains tax is not a separate revenue head. Capital gains tax is included in a number of other revenue heads. Our revenue forecasters who will be here later may be able to help you.

**Senator JOYCE**—The money from the ETS is equivalent to a quarter of the money received from the goods and services tax?

**Mr Ray**—That would be about right.

**Senator JOYCE**—Obviously it has got to be absorbed by the economy so the economy can assume that it is about 25 per cent of the goods and services tax increment in the tax coverage, but that is the tax coverage before the traders—that is, before the bankers and brokers get to it. They are going to put their premium on it as well, so they are going to get more than a 25 per cent increase in GST.

**Mr Campbell**—As I understand it, the model price will take into account all use of goods and services, including financial services and brokers, in the modelling.

**Senator JOYCE**—The brokers are going to grab your \$29 permit, sell it, make a 1½ per cent commission or whatever and then they are going to churn it. The actual price to the consumer of that permit is going to be in excess of \$29. That is going to be filtered back. For all intents and purposes, the raw tax take to the government might be that, but the cost to the consumer is going to be in excess of a 25 per cent increase in the GST.

**Ms Quinn**—The total cost to the consumer will be net of transfers and payments by the government. The government is intending to raise revenue by selling permits and then providing assistance through various mechanisms back to the community.

**Senator JOYCE**—Is that for a short period of time or forever?

**Ms Quinn**—The government's stated intention is to return the revenue from the CPRS cent for cent over the life of the scheme.

**Senator JOYCE**—Is that in the legislation?

**Ms Quinn**—I am not sure whether it is in the legislation.

**Senator JOYCE**—That is a handy way to pay your interest bill and fix up your debts—get yourself a massive new tax.

**Senator BOSWELL**—I would like to pursue this line of questioning.

**CHAIR**—Yes.

**Senator CAMERON**—Smear campaign No. 1.

**CHAIR**—We will talk about the program, since Senator Boswell has indicated a desire to continue that line of questioning in the modelling area. I am proposing that we deal with that in the last half hour, that is from 10.30 to 11.00, and we will continue on with other Fiscal areas.

**Senator BOSWELL**—You are not allowing the continuation of this. Are you going to put it back for another half an hour?

**CHAIR**—What I am saying is other people have indicated that they have questions, but they are not here at this stage. It might be better to do it altogether. With the agreement of the committee we can do it together at 10.30.

**Senator EGGLESTON**—I think that Senators who are here—

**CHAIR**—I understood that I was going to go to Senators Coonan and Bushby at this stage. I was trying to indicate to Senator Boswell, if he wanted to come back at 10.30—

**Senator EGGLESTON**—He has specific questions on this area.

**CHAIR**—I am in the hands of the committee. I am happy to let Senator Boswell go ahead. Senator Boswell.

**Senator BOSWELL**—Senator Coonan, do you have questions on this?

**Senator COONAN**—On some issues, yes, I have. I signalled last night that I needed to do it because I have to go.

**Senator Sherry**—Senator Coonan indicated last night that she did have to go.

**CHAIR**—I was trying to facilitate that, but the committee indicated to me that they did not want that to happen. We will do modelling afterwards. Senator Coonan.

**Senator COONAN**—I do not have a lot of questions. Firstly, I will flag that I know you have been asked innumerable questions and I hope I am not going to absolutely double up. A friend of mine once said that he abhors repetition; that can be very difficult. I hope I am not falling into that error. My questions relate to the emissions trading scheme modelling. Has any modelling been performed or commissioned by Treasury on the relative regional effects of the introduction of the CPRS?

**Ms Quinn**—This is a question I have answered before and there are questions on notice to the committee. Treasury has not done detailed regional economic analysis because we do not

believe there are robust tools available for us to do so. There is an issue about the statistical base on which to perform the analysis in terms of the amount of information about the abatement opportunities, the distribution of emissions intensive and energy intensive industries down to fine substate detailed regions. We do not believe that information is robust enough to be able to form a coherent view.

In addition, the economic tools that we use to model the potential costs of putting a price on emissions in Australia need detailed analysis of the opportunities and costs of moving between high-emission intensive goods and low-emission intensive goods, and none of the economic models available to us look at a substate region. In our view, most of the estimates that would be available from the existing tools would be biased and, as a result, we have not commissioned the work.

**Senator COONAN**—If I understand your answer correctly, you are saying that it is really the technical aspects of the tools not being robust enough that mitigates against this kind of modelling rather than the desirability.

**Ms Quinn**—Correct, if there was just general uncertainty; there is always uncertainty in modelling. You can talk about uncertainty in projections in modelling, but it is the fact that you would go from existing industrial structures and put a price on emissions, you would only get the downside; you would not get any of the upside or any of the new possibilities in that modelling. It is the biasness of the results which means that we are uncomfortable doing that type of analysis.

**Senator COONAN**—If it were possible to address those drawbacks, good policy formulation would suggest that getting a clear understanding of the impact—for example, of the CPRS on energy intensive regions such as the Hunter Valley, Illawarra, Latrobe Valley or Central Queensland would certainly be desirable.

**Ms Quinn**—To an extent. While we cannot quantify with any degree of certainty or unbiasedness, qualitatively we know that the areas where we have low-emission intensive industries will benefit compared to locations where industries are high emissions intensive. With the qualitative understanding of the distribution of those industries you can get a high level feel for what might happen.

The other point to make is that detailed economic modelling is not necessarily required for good policy design. Given that we understand that emission-intensive industries are important, as are strongly affected industries and regions, the CPRS assistance packages have been designed to attempt to mitigate the transition to a low pollution future, so the Climate Change Action Fund, for instance, is specifically targeted at assisting regions that will need to adjust through time, as does the emission-intensive trade-exposed component of the package and the strongly affected industries package as well.

**Senator COONAN**—Is it correct that the New South Wales government has commissioned its own research into regional impacts of the government scheme with findings that regional areas across Australia would shrink by over 20 per cent?

**Ms Quinn**—There is analysis in the public domain from various different forums, including the New South Wales government. They are using the techniques that I have already explained which we consider to be biased. They will be worse case scenarios and, in fact,

probably worse than worse case scenarios because they do not have the ability to pick up the positive affects of resources moving between substate regions.

**Senator COONAN**—Has Treasury modelled the macroeconomic effects of an unconditional five per cent reduction in 2000 emissions by Australia in the absence of any corresponding international action?

**Ms Quinn**—The Australian Treasury has not, but the Garnaut revue did publish a simulation that looked at that element. The Garnaut review simulation found that the impact on Australia was less than in a coordinated world to 2020 because there are two mechanisms which drive the economic costs at a macroeconomic level. One is the behaviour of our trading partners and the impact that any price on emissions might have on their economy, and subsequently demand for our exports, and the other cost is what happens within the Australian economy itself in terms of moving between sectors. The simulation for the Garnaut review found that Australia going it alone under a CPRS minus five cap suggested that the net economic impact would be lower than Australia going with a coordinated process.

**Senator COONAN**—If I understand your answer correctly, the Garnaut modelling assumes some abatement by other countries taken into the modelling.

**Ms Quinn**—Not in that scenario. In that scenario it was Australia going it alone with no-one else doing anything. In that world Australia did better than when Australia did something and other countries also did something.

**Senator COONAN**—There is currently no modelling of which you are aware, certainly none by Treasury, that assumes at least some abatement by other countries.

**Ms Quinn**—We had four scenarios and more than 20 sensitivity analysis in the Treasury modelling. In the four main scenarios there was action by countries at various times. Treasury did not look at Australia doing something and the rest of the world doing nothing. That was done by the Garnaut review.

**Senator COONAN**—How large are the modelled increases in retail electricity in the first year of the currently proposed CPRS?

**Ms Quinn**—Under the assumption of a fixed price permit in 2011-12 of \$10, the expectation is that retail electricity prices faced by households would go up about seven per cent. Under an assumption of a \$29 carbon price—and that is an assumption because the price will be set in the market for permits—there would be an additional 13 per cent increase in 2012-13.

**Senator COONAN**—I was going to ask you about the retail prices over the first two years, 2011-12 and 2012-13 combined.

**Ms Quinn**—It is seven per cent in the first year and 13 per cent in the second year. It rounds to 21 per cent if you do the two years together.

**Senator COONAN**—What about wholesale prices in Victoria over those two years? Do you have any breakdown for Victoria, New South Wales or nationally?

**Ms Quinn**—We have not done a detailed analysis with the fixed price permit for the wholesale electricity sector. We have the wholesale electricity prices from the government

modelling that was published in October 2008, but we have not updated that analysis at a wholesale level for the \$10 fixed price permit, so I do not have precise numbers.

**Senator COONAN**—Are you going to do that?

**Ms Quinn**—We work at the direction of the government.

**Senator COONAN**—Minister, is the government going to direct that additional modelling be done?

**Senator Sherry**—I would have to take that on notice.

**Senator COONAN**—How much does the Treasury expect a typical household electricity bill to increase by per year?

**Ms Quinn**—I need to clarify that the seven per cent increase in 2011-12 is an assumption that the entire carbon cost will be passed through to consumers and it assumes they have no change in behaviour, either at the consumer level or the producer level. It is a morning-after effect where there is no change in anything at all in the economy. In that sense you could consider it an upper limit because there will be changes in the supply of electricity and the behaviour of consumers that would typically mitigate the cost impact. Similarly, these numbers are assuming the structure of the economy as it was in 2004-05, because that is the latest information that we have from the ABS and we know that the emissions intensity of the economy has fallen through time, so that is another reason why these would be an overestimate. A seven per cent increase suggests a weekly nominal dollar figure of \$1.50, which would be an annual nominal figure of \$78 for your average household bill. The 13 per cent increase in 2012-13 would correspond to a \$2.80 weekly increase, and that is a \$146 annual increase.

**Senator COONAN**—I am interested in the description of the morning-after assessment. What does the available empirical evidence tell us about how household and business demand for electricity responds to price signals?

**Ms Quinn**—We used three different models of household behaviour in the economic analysis that we did. The model that we used for the more detailed breakdown of impacts on Australia was the Monash multiregional forecasting model provided by the Centre of Policy Studies at Monash University. In that model there is an assumption that the expenditure elasticity of demand at the household level in response to electricity prices is 0.5 and the price for elasticity of demand for firms' intermediate input use of electricity is 0.25. This would suggest that an increase in electricity prices, over time, would result in a reduction in demand.

Also, putting a price on one particular component of production will shift demand between sectors so you will find that it is not just that the level of demand changes in response to price, but the shift in the structure of the Australian economy also changes the overall demand for electricity. For example, if you put a price on electricity, really energy intensive industries may exhibit slower growth going forward which changes the structure of the economy and reduces aggregate demand for electricity. In the modelling about half of the reduction in demand was because of these industrial structures and the other half was due to the level of demand in industries slowing.

**Senator COONAN**—I have a few more questions. Power prices have risen at double-digit percentage annual rates in several Australian states over the past year or two. How much has that affected demand in percentage terms?

**Ms Quinn**—I can take that question on notice and provide a more detailed breakdown. It has been the case that the demand growth in some regions has been much less than was expected by the electricity market itself. There is a fairly regular provision of statement of opportunities by what was previously the NEMMCO company and now AEMO, which looks after the electricity market on the east coast. It has been the case that electricity demand growth has been much less than expected. It is always difficult to break down how much of that is because of electricity prices and how much of that is due to underlying economic conditions. The experience has been that generally, over time, changes in prices will change demand, either through changing the structure of the economy or changing people's incentive to apply energy efficiency measures.

**Senator XENOPHON**—I would like to ask a quick supplementary question to that?

**CHAIR**—Of course.

**Senator XENOPHON**—When the public electricity assets in South Australia were privatised in the late-1990s there was an increase to the retail price in the region of 32 per cent. Could you take on notice how much drop in demand there was, because I suggest that there was not much of a drop in demand at all, even with the spike in electricity prices, which says something about the inelasticity.

**Ms Quinn**—I can certainly take that on notice. There is an issue that a spike in electricity prices is likely to have less of an impact on electricity demand response than an expected permanent increase in electricity prices. If consumers are looking forward and they know that the prices are going to go up 10 per cent one year and then go back down again then they have much less incentive to change their behaviour in the way they use electricity.

**Senator XENOPHON**—They did not go back down again in South Australia.

**Ms Quinn**—The wholesale prices that I have in front of me for South Australia for 2008-09 are lower than they were in 1999-2000.

**Senator XENOPHON**—Is that in terms of what consumers were paying? Could you take that on notice?

**Ms Quinn**—Yes.

**Senator XENOPHON**—Thank you.

**Senator BOSWELL**—I would like to ask a supplementary question. A model by the Energy Supply Association in response to a Senate inquiry said that at the retail level, when you took into consideration new power lines and the pipes that would take the electricity into the areas of use, it would be a 40 to 50 per cent cost increase. In your modelling have you taken into account new power lines and new pipelines that would be needed to transmit the renewable energy? Have you taken into consideration the cost of those, which I understand to be somewhere around \$30 billion, or have you just modelled without consideration of the new power lines that will be required?



**Ms Quinn**—In the economic analysis for the government's CPRS modelling report we took account of changes in the structure of the electricity industry, changes in the requirement for transmission lines and changes in the requirement of the composition of electricity to support shifts in technology—for instance, an increase in renewable energy sometimes needs an increase in gas to provide a balancing of the electricity system. All of those elements were examined.

I would like to draw your attention to the fact that sometimes when people talk about retail electricity prices that is not the same as household electricity prices. There are three levels to the system in Australia. There is wholesale, which is the price received by the people who supply electricity into the wholesale market; the retail price, which is the price that is paid for by the retail companies, and then there is the household price and the price paid by small businesses which is charged from the retail companies at the other end. The gap between those things through time is how much the distribution, transmission and other things like billing cycles and so on cost. Typically, if you go from a number like 40 per cent in the wholesale, you halve that to retail and then you knock off another half again to get to households because by the time you get to households, the majority of the bill is attributed to things like transmission distribution costs, not the actual cost of generating the electricity.

**Senator BOSWELL**—What modelling have you done on the cost to households and small business?

**Ms Quinn**—We did a comprehensive analysis in the *Australia's low pollution future* modelling report.

**Senator BOSWELL**—What was the increase?

**Ms Quinn**—It was a slightly different carbon price. This is table 6.15, which was based on a higher carbon price than the current fixed price permit of \$10. It was starting at a \$23 nominal price. The average increase over 2010-15 was 20 per cent relative to what the prices would have been without a carbon price.

**Senator BOSWELL**—Is a small factory with, say, 200 to 400 workers considered to be retail or household?

**Ms Quinn**—Typically, small businesses get their electricity from a retail provider, so they would pay similar prices to households. However, it does depend on how they have negotiated their electricity supply. Some very high-energy intensive industries might go directly to a retailer, source their electricity direct from them and have a separate deal.

**Senator BOSWELL**—You have still got a discrepancy with what the Energy Supply Association has modelled as 40 to 50 per cent increase for householders. You are saying it is a 20 per cent increase.

**Ms Quinn**—I am wondering whether the price you are quoting from ESAA is actually a retail price or a household price. It sounds more in the ballpark of a retail price rather than a household price.

**Senator BOSWELL**—It is going to increase more. A household price would be dearer than a retail price.

**Ms Quinn**—No, it goes the other way around in terms of the cost increase as a result of—

**Senator BOSWELL**—Do households pay less than the people that supply them?

**Ms Quinn**—No. The cost of electricity component for a household is much less. Typically, about three-quarters of their bill will be transmission and distribution and the actual cost of the power, of generating the electrons, is about a quarter, whereas for a retailer it is half-half.

**Senator BOSWELL**—I just cannot get this. You are saying householders would pay less.

**Ms Quinn**—The percentage increase would be less than the percentage increase faced by retailers.

**Senator BOSWELL**—Thank you. I just cannot get this. Are you saying householders would pay less than—

**Ms Quinn**—The percentage increase would be less than the percentage increase faced by retailers.

**Senator COONAN**—I just wanted to continue with that earlier question. Does Treasury agree that most historical and international evidence, if I could put it broadly, shows that demand for electricity is ‘inelastic to price rises’?

**Ms Quinn**—It is true that it takes time for people to change their behaviour and they typically do not change their demand overnight. As I outlined earlier, the MMRF model is a model that has been used extensively in Australia and the research that has gone into providing their estimate of response to increases in electricity prices is comparable to that used by other international modellers and other models in Australia. So I do not think it would be true to say that it is inelastic over time. I think it depends on the time horizon over which you are thinking. It does not change the morning after. Yes, over time the evidence has been that consumer demand does change.

**Senator COONAN**—Perhaps I should clarify it. What I am really seeking to ascertain is whether Treasury agrees that a sharp initial increase in electricity prices, rather than a more gradual rise in prices over time, is the most effective means of addressing climate change at the lowest possible cost to the economy?

**Ms Quinn**—In terms of consumers’ behaviour to changes in relative prices, the evidence across other types of analyses, such as petrol prices and other tax changes, is typically that with consumers who know that the price increase is permanent, the larger and more obvious the price change is, the quicker you get behavioural change. So, to that extent the evidence—certainly in other areas where the prices have changed more often, such as oil prices—is that two increases of five per cent over time results in less consumer behaviour change than a once-off permanent 10 per cent increase. So the evidence tends to suggest that if consumers know it is permanent, they know that it is going to stay, and in particular that it is going to continue to rise, then you get adjustment more quickly to the new world than if people wake up every morning getting surprised that the price is still higher and it fluctuates up and down.

**Senator COONAN**—Does that not happen with oil prices, though, or petrol prices?

**Ms Quinn**—There have been instances, for instance, where there have been changes in taxation regimes which have resulted in changes in petrol prices, and that is where this evidence is drawn from, along with from other relative price changes as well. I would also like to draw your attention to this analysis. The Treasury modelling was published and, as a

result, there was quite a lot of debate about various responses and various components of the analysis. The ACIL Tasman is another modelling organisation which we use for part of our analysis, but not this component. In their assessment, the change in the electricity demand that was evident in the modelling for the CPRS scenarios was consistent with the price elasticity of demand which they also thought was correct for the Australian economy.

**Senator COONAN**—Given that household compensation for the introduction of the CPRS has been set at 120 per cent of the actual average impact, does that mean that households in some states will receive windfalls or much larger increases in income through the tax and transfer system than the modelled rise in electricity prices that they actually experience?

**Ms Quinn**—We have talked about the percentage increase in electricity prices, and those percentage increases are based on how much people actually spend on electricity in different parts of the country. My understanding is that the breakdown of retail prices in terms of dollars per week in different retail components in the MMA analysis suggests that, even though the percentage increases might be a bit different, they apply to different bases and the divergence is much less between different states than would be suggested by the percentage increase numbers.

**Senator COONAN**—So there is no windfall effect?

**Ms Quinn**—It is difficult to be definitive about no or yes, because every individual is going to have a different electricity bill and different electricity use, but if there is a dispersion, our expectation is that it would be much less than the percentage numbers would suggest.

**Senator COONAN**—Has Treasury analysed the effects of the new ABS population projections on the ETS forecasts?

**Ms Quinn**—Is this the ABS projections or the new projections done by—

**Senator COONAN**—Yes, the ABS projects population of 34.5 million in 2050 up from 28.6 million, quite an increase per head of CO<sub>2</sub> emission reductions.

**Ms Quinn**—Sure. In the modelling done for the CPRS modelling report, the assumption was of 33 million at 2050, so we had incorporated most of that information in the latest ABS update at the time of the report in October last year. So the gap is approximately a million by 2050, and a number of that size would not materially change any of the results in our modelling.

**Senator COONAN**—So it is not statistically significant?

**Ms Quinn**—It is not, no. It would be potentially if we had a much lower number, but we had already incorporated most of the information that was available in that ABS update.

**Senator COONAN**—Thank you.

**Senator CAMERON**—Ms Quinn, there have been lots of analyses done in terms of the employment implications of the CPRS. I understand that the Treasury modelling shows that there will be continued robust growth in the economy after the introduction of the CPRS. Is that still the position?

**Ms Quinn**—Yes. The overall macroeconomic analysis of the report suggests that growth might be 0.1 percentage points slower per year and that the economy will continue to grow, that per capita incomes will be higher in the future than in the past, and that as population grows there will also be a continued growth in jobs. For example, in the analysis that we did, national employment is projected to increase by 1.7 million jobs from 2008 to 2020. The value of output is projected to increase in all major employment sectors over that period as well.

**Senator CAMERON**—A report was done for by the now defunct Concept Economics. Dr Henry Ergas, who is one of the principals of Concept Economics, has been lecturing the government about how to run the country, but it seems he cannot run his own company. But putting that aside—

**Senator Sherry**—That is a matter for ASIC.

**Senator CAMERON**—Yes, I should raise it with ASIC. But putting that aside, the Concept Economics report has been portrayed as the loss of tens of thousands of jobs in the coal industry in regional Australia. My reading of the report is not what the Minerals Council is saying in its media release; my reading of the report is that it is jobs that would have otherwise been created as distinct from jobs being lost. First of all, have you read the Concept Economics report, and are you in a position to explain what the Concept Economics report is about?

**Ms Quinn**—I have read the Concept Economics report for the Minerals Council of Australia. All the headline results that are reported in that report do make a difference to a reference case world or a reference scenario world. So they do a scenario of what they think will happen to Australia in the absence of any mitigation policy. They then put mitigation policy on top and they compare what the two hypothetical worlds might be in 2020 rather than comparing what might be in 2020 to today. It is the case that they report around 23,500 fewer jobs relative to what otherwise would have been the case in the mining industry in 2020.

The Concept Economics report does not contain any information about what they expect to happen in the absence of price on carbon. However, the Minerals Council has also commissioned work on a world without a carbon price from the National Institute of Labour Studies at Flinders University, and that analysis suggested that there would be around 87,000 jobs created across Australia between now and 2020. It is difficult to know if those two concepts line up, because there is not enough information to identify, but even if you sort of said half the numbers from the Flinders University study were correct, it would be still the case that there would be more jobs in mining in the future than there are today, even though there might be fewer than there would otherwise have been.

**Senator CAMERON**—Given the projections about increased use of coal in the world economy, do the figures that the Treasury are projecting line up with that projected increased use of coal and export of coal?

**Ms Quinn**—In our analysis across all of the different scenarios, the coal output is expected to be about 50 per cent higher in 2050 than it is today. That is the worst case scenario of all

our scenarios, and that is in a world where the targets are aiming for 450 parts per million, which is a 25 per cent cut in emissions in Australia in 2020.

**Senator CAMERON**—So there would still be robust growth in the coal industry in terms of employment growth?

**Ms Quinn**—That would be the expectation. Obviously anything going out over 50 years has a great deal of uncertainty around it. In particular for the coal industry, one of the most important elements is what is going to happen to the technology mix for electricity generation in a world of carbon prices. This is where I draw your attention to the importance of technology such as being able to reduce emissions from coal either through carbon capture and storage or reducing the emissions intensity of burning coal itself. So, in a world without carbon capture and storage, the future of the coal industry is less bright, but in a world where technology evolves such that it is possible to have electricity produced using coal, then the expectations are that the coal industry would continue to expand in Australia.

**Senator CAMERON**—You mentioned this Flinders University analysis that has been done for the Minerals Council. Is that a publicly available report?

**Ms Quinn**—Yes, it is on their web page.

**Senator CAMERON**—Could you give us the reference of where we could find that?

**Ms Quinn**—Sure.

**Senator CAMERON**—So you cannot really explain the difference between the Concept Economics approach and the Flinders approach that have been commissioned by the Minerals Council and how it is that they are getting these two different—

**Ms Quinn**—It is difficult to be precise about the definition of mining. Different people have different definitions about what encompasses the mining employment sector, so it is difficult to line up those concepts. It is also difficult to be very precise about the reference case world in the concept analysis because they provide no information in their report.

**Senator CAMERON**—So the bottom line is that, whether you use the Flinders report or the Concept Economics report, job growth in the coal industry in Australia will continue to grow despite the introduction of the Carbon Pollution Reduction Scheme?

**Ms Quinn**—That would be the expectation if demand continued to grow.

**Senator CAMERON**—Thanks.

**Senator XENOPHON**—You referred to fuel prices earlier. I know that Caltex has made submissions to Senate inquiries. Are you aware of Caltex's complaints about the treatment of fuel in the CPRS?

**Ms Quinn**—Only peripherally. My understanding is that it is a policy issue about cash flow and the implications of a permit for their cash flow position, which would be a question best directed to the Department of Climate Change.

**Senator XENOPHON**—I will put those questions on notice. Can I just go to the issue of the Frontier Economics report? Are you aware that I jointly commissioned that with the coalition, and that was released about—

**Senator CAMERON**—You have a vested interest in it.

**Senator XENOPHON**—Senator Cameron, I have a vested interest in good policy. I have a vested interest in good outcomes.

**Senator Sherry**—It is a legitimate focus?

**Senator XENOPHON**—It is a legitimate focus. That report was released I think on 11 or 12 August—it was over two months ago—and I understand that Treasury undertook a very robust or very detailed analysis of that report. Is that correct?

**Ms Quinn**—We certainly looked at the report and provided advice on how it compared to other modelling in the public domain.

**Senator XENOPHON**—The Frontier modelling was extensive and they used the same modellers that were used for the government's own modelling in relation to climate change. I think that is the case.

**Ms Quinn**—They used two models, reading from the report. One was a proprietary Frontier Economics model of the electricity sector which was not used by the government. The other one was a version of the Monash MMRF model. I do not know if it is the same model. The MMRF model is a model that can be changed through time and can be adjusted, so it would probably be more accurate to say a version of the same model.

**Senator XENOPHON**—But effectively they used the same model as the Treasury used as well?

**Ms Quinn**—They used a version of one of the models. But this is quite important: I cannot be definitive about it being the same model, because you can change behaviour quite a lot within the same code, and we did make adjustments to the MMRF model that are publicly available in the analysis used for the government.

**Senator XENOPHON**—What were the resources used by government? How many hours were spent by Treasury analysing the Frontier model? Can you give me an approximate figure? In other words, were a number of officers involved in analysing the Frontier Economics model?

**Ms Quinn**—There were different aspects of looking at the Frontier Economics report. There were elements related to the actual detailed economic modelling results and comparing those to the government's results and other results in the public domain. It is difficult to be precise, partly because some of it was not there, but it would probably be fair to say that it was two or three days of one or two people looking at the quantitative modelling. There are other elements looking at policy issues raised by the report and policy propositions put in terms of coverage, scheme design, international linking and various other elements. They were done by other parts of Treasury and the Department of Climate Change.

**Senator XENOPHON**—How many days would have been spent on those other aspects of it?

**Ms Quinn**—I am not sure in terms of the other components of the fiscal analysis, and you would have to ask DCC in terms of how much effort they put into it.

**Mr Campbell**—I imagine it would have been broadly comparable, though, in terms of the number of days spent on the other aspects in terms of the fiscal impact.

**Senator XENOPHON**—Thank you. Ms Quinn, can I put that on notice in terms of the resources that were employed to look at the Frontier model in relation to all its aspects?

**Ms Quinn**—Sure.

**Senator XENOPHON**—But it would be fair to say that you had a comprehensive look at the Frontier model and its implications?

**Ms Quinn**—Yes.

**Senator Sherry**—We will take that on notice.

**Senator XENOPHON**—In terms of the actual resources?

**Senator Sherry**—With respect to the resource issue, yes.

**Senator XENOPHON**—In relation to the Frontier model, when was an analysis provided to Treasury, on what date was that analysis completed and when was it provided to the Treasurer?

**Ms Quinn**—There was a series of elements. Information was provided as a very quick snapshot look on the first day of the report, and then subsequent analyses through time were provided as questions were raised or as more information came to hand. So my understanding is that there has been a series of information provided all the way through to this day, really, depending on when questions were asked.

**Senator XENOPHON**—So media reports indicating that the Treasurer's office had a report from Treasury in relation to their analysis of the Frontier report several weeks ago would be accurate?

**Ms Quinn**—We did provide advice and, as I said, reactions—a high-level discussion—fairly quickly after the report was released, so within 24 hours. There were additional analyses through time as we had more time to think about things and dug into details.

**Senator XENOPHON**—On 11 October, the Treasurer's office provided a one-page background sheet entitled 'Background Only; Not For Quotation' to the media on the Sunday night and then there were media reports saying there was a supposed \$3.2 billion black hole in the Opposition's CPRS policy in relation to the Frontier modelling. When was the basis for that material provided to the Treasurer's office?

**Ms Quinn**—That was not provided from my area to Treasury, so I will defer to Russ Campbell.

**Mr Campbell**—I will have to take on notice the actual precise date that was the basis of that particular number. I personally have not seen the material that was released by the Treasurer.

**Senator XENOPHON**—Are you aware of the Treasurer's public statements saying there was a black hole, et cetera?

**Mr Campbell**—I am aware of that.

**Senator XENOPHON**—You will take the precise date on notice, but would it be fair to say that that material was provided several weeks earlier to the Treasurer's office?

**Mr Campbell**—The actual figure itself?

**Senator XENOPHON**—Yes, or the actual analysis?

**Mr Campbell**—Regarding the analysis, there were a number of pieces of advice provided in relation to the fiscal impact analysis, alongside other pieces of advice. I will have to take on notice that precise date, as I said before.

**Senator XENOPHON**—But would a couple of weeks earlier sound about right to you? Two to three weeks earlier?

**Mr Campbell**—I was not actually there at the time, so I will have to take that on notice.

**Senator XENOPHON**—I do not know whether Mr Ray wanted to add anything to that?

**Mr Ray**—I think it is fair to say it was a matter of weeks. But we have taken it on notice to provide the precise dates.

**Senator XENOPHON**—Thank you, Mr Ray. It was a matter of weeks. Ms Quinn, the Treasurer said that he refused to provide details of the modelling, the basis upon which the assertions were made. I presume that the assertions made by the Treasurer were based on advice from Treasury?

**Ms Quinn**—I will have to defer to Russ Campbell on this. The fiscal impacts of different policies are not undertaken by the area that does the economic impacts.

**Mr Campbell**—The nature of the advice on the fiscal impact analysis necessarily included a range of interpretations and assumptions. The degree to which I can provide further information, as I say, I will have to take on notice.

**Senator XENOPHON**—Can you provide those, given that the Treasurer has refused to release them?

**Mr Ray**—I think Mr Campbell has taken it in notice to see what we can provide you.

**Senator XENOPHON**—But you acknowledge, Mr Ray, that the Treasurer has refused to release the modelling; the basis upon which the assertions were made.

**Mr Ray**—As much as I try, I do not follow every word that the Treasurer says. What we have done is we have taken it on notice to see what we can provide you.

**Senator XENOPHON**—But presumably the Treasurer made the statements that he did about a black hole based on advice from Treasury?

**Senator Sherry**—The statements the Treasurer makes are his statements. They are his views. I have not seen them either. I have not seen the press release or any transcripts.

**Mr Ray**—If I can try to help, we provided advice to the Treasurer. He then made some public statements.

**Senator XENOPHON**—The advice upon which those statements were purportedly based has not been released publicly?

**Mr Ray**—That is correct.



**Senator XENOPHON**—Minister, is there a plan to release the advice upon which the Treasurer made it?

**Senator Sherry**—We will take it on notice. It is advice to the Treasurer and the government. We will take it on notice.

**Senator XENOPHON**—But it is advice that the Treasurer has been quite happy to make public statements about, attempting to trash the reputation of Frontier Economics.

**Senator Sherry**—We will take it on notice, as I have said.

**Senator XENOPHON**—What time are we looking at for a response, given that we have a debate on this in three weeks time?

**Senator Sherry**—What I will do is endeavour to ensure we get a response within the timelines required by the committee. I cannot give an indication of any timeline for a response. We will take it on notice.

**Senator XENOPHON**—Minister, last night Mr Henry, the Treasury Secretary, made I think a fair point, saying that they did not get a fair hearing to respond to matters raised in the OzCar affair and the Auditor General's inquiry. We have a situation here where Frontier Economics cannot respond to statements made by the Treasurer.

**Senator Sherry**—Why can they not respond to statements made by the Treasurer? They have a prerogative. They can debate, defend or critique, presumably.

**Senator XENOPHON**—How? With respect, we have a situation here where the basis upon which the assertions were made, the modelling by Treasury, has not been released.

**Senator Sherry**—But as I said, we will take it on notice. I will draw the attention of the Treasurer to the request, but we will take it on notice.

**Senator LUDLAM**—I want to refer to your modelling on the impact of the CPRS on emissions from coal-fired power stations. There has been a bit of debate about that this morning already. There is a particular graph that you produced which shows output from the coal sector out to I think about 2050 from now. Can you talk us through the thinking that is implicit in that modelling? In particular, what drives the reductions in emissions from the coal sector between now and 2020?

**Ms Quinn**—Do you have a particular graph in mind? Is it one from the report?

**Senator LUDLAM**—I will just see if I can reference it for you. It was in the modelling that you provided on the impact of the CPRS on emissions from coal-fired power stations.

**Ms Quinn**—There are several different charts. For instance, chart 6.29, which was under the CPRS minus five scenario—

**Senator LUDLAM**—Is it 6.24?

**Ms Quinn**—No, 6.29 on page 179 of the Australia's low pollution future report.

**Senator LUDLAM**—I do not have that in front of me. The one I am referencing is 6.26. It is just a fairly simple graph. I think it runs out to about 2050.

**Ms Quinn**—Okay, graph 6.26 is emissions from the entire electricity generation sector, not just from the coal sector.

**Senator LUDLAM**—Okay, great.

**Ms Quinn**—It is fair to say that quite a lot of the reduction is related to coal, but if you wanted to particularly talk about coal, then 6.29 is probably more appropriate because it breaks it down between what is happening on black coal, brown coal and carbon capture and storage technology.

**Senator LUDLAM**—Do you want to just talk us through the assumptions underlying those projections out to 2020, where there is a bit of a dip?

**Ms Quinn**—Yes. Out to 2020, the reduction in emissions from the electricity generation sector are driven partly through reductions in energy demand as a result of higher electricity prices and through technology switch between different technologies. Out to 2020, there is the renewable energy target, there is switching to gas and there is reduction in electricity from the coal sector. In terms of the amount of emission reduction that we get from the renewable energy target versus the CPRS component alone, the reduction in emissions is at about twice as much reduction from the CPRS than from the renewable energy target.

**Senator LUDLAM**—Okay. That assumes carbon prices of what out to 2020?

**Ms Quinn**—Out to 2020—this is an assumption that it is under the CPRS minus five prior to the government's announcement of a fixed price permit—they go from \$20 in real terms in 2010 in that modelling to a carbon price of \$35 in 2020. So, under that scenario, this is the CPRS minus five scenario, the actual emission allocation is a five per cent reduction by 2020, which is around 525 million permits in 2020.

**Senator LUDLAM**—So there is that dip out to 2020 which you are saying is partly the impacts of the CPRS kicking in and partly renewable energy targets and switching technology. Between 2020 and about 2033, and I am still on graph 6.26 here, the emissions have basically flat-lined; they stay fairly stable out to the mid-2030s.

**Ms Quinn**—The emissions from the electricity generation sector, yes, that is correct. There are two offsetting influences here: there is continued growth in energy demand through time, and the supply of electricity is continuing to grow quite strongly through that period; and the emissions intensity of the electricity supply is falling as a result of fewer switching between different technologies.

**Senator LUDLAM**—Okay, so those two things are cancelling each other out and emissions staying roughly flat out to 2030 from that sector?

**Ms Quinn**—That is right.

**Senator LUDLAM**—What happens after 2033 where we see a big dip and emissions finally start to fall from that sector?

**Ms Quinn**—In 2033 it is partly that there is a slight slowing in electricity demand in the reference period, and it is also that carbon capture and storage becomes commercially viable in this scenario in 2033. What happens when it becomes commercially viable is that those plants that have previously been built with a capacity to add carbon capture and storage start to do so slowly over time and as new plant comes in they also come in immediately using carbon capture and storage.

**Senator LUDLAM**—That is what I thought it might suggest. Can you tell us the name of any consultants or experts in the field that you relied on who have stated or would state publicly that they think clean coal will be invented and affordable by 2033?

**Ms Quinn**—We received advice going through the process of the review and the analysis from various sources, and the technical assumption made in the modelling report was that from 2020 the technology, the knowledge of how to put the pieces of the puzzle together, would be available. When it was actually adopted within different scenarios was based on its commercial viability. This modelling was carried out by the MMA modelling group which suggested that carbon capture and storage would become viable at the carbon prices of demand profiles and other considerations in the scenarios between 2026 and 2033. This analysis is consistent with that also produced by other modelling organisations in Australia such as the modelling done for the Energy Supply Association and modelling done for other organisations.

**Senator LUDLAM**—I realise that some of this is actually in that study that you have there, but could you provide for us any more details, perhaps on notice if that is necessary, of who MMA actually used and who the experts were that were consulted? We hear very different things about the availability and the timing of the commercialisation of clean coal, because at the moment, I hope you would agree, things are not going particularly well?

**Ms Quinn**—I am happy to take that on notice. In broad terms, the sources were organisations such as the International Energy Agency, which does a comprehensive survey of the state of technology, and they provide their technology perspectives report on a regular basis, so there were international analyses. There was also the analysis in the US done by the Environment Protection Agency and domestically it was done by different engineering companies, the Garnaut review, the carbon capture and storage CRC and various engineering components.

**Senator LUDLAM**—I realise you do not have them right at the moment, but can you provide those for us on notice and a more detailed breakdown of whose advice you relied on? The picture does not look particularly good if that technology is not available by 2033; we would see no reductions in that sector, presumably.

**Ms Quinn**—No reductions relative to today, but significant reductions relative to what we expect to happen in the absence of emission pricing. It depends upon which way around you think about it. We do see significant reductions relative to emissions in the reference world. We have a strongly growing population and continued growth in per capita incomes, so in the absence of a price on emissions, emissions from the electricity generation sector are expected to grow substantially. So a flat lining relative to today is a substantial reduction in emissions relative to what we would otherwise expect.

**Senator LUDLAM**—Yes. It is certainly better than it could be, but as far as the atmosphere is concerned, emissions from that sector will be the same effectively as they are today, even with the introduction of the CPRS?

**Ms Quinn**—In the modelling we have provided that Australia is meeting its emission reduction targets in terms of undertaking its share of emission reduction in the globe. An important thing is that the CPRS does not mandate where emissions come from; which

particular sector. It is difficult to be precise about what technology will come on board when, and that is precisely one of the reasons why economists suggest that something like a cap and trade system is a more efficient mechanism for reducing emissions rather than mandating emission reductions in particular sectors. Australia is meeting its emission reduction targets at the time that we have flat lining emissions from the coal sector.

**Senator LUDLAM**—I gather it will be a bit difficult to model the costs of future carbon capture and storage when the technology has not been commercialised anywhere yet, but for the purposes of your modelling, can you provide us with information on the basis of your assumptions about the future cost of renewable technologies which are falling quite rapidly?

**Ms Quinn**—Once again the cost of renewable technologies was obtained through research and discussion with people in the industry, both internationally and domestically. We asked for submissions from people on the cost of renewable energy. We had quite a lot of discussions with people in different components of the renewable energy sector and a lot of that was fed through to the consultants used in the report, which includes ACIL Tasman and MMA. That built on a body of work that had previously been done through the National Emissions Trading Taskforce with other states and also the Garnaut review analysis of alternative technologies.

**Senator LUDLAM**—Could you possibly provide those on notice for us as well, including the future cost estimates of renewable technologies across the board.

**Ms Quinn**—Sure.

**Senator BOSWELL**—Have the coalition amendments been costed?

**Mr Campbell**—Some work has been undertaken to date on the cost of the coalition amendments, but they have not been formally costed yet.

**Senator BOSWELL**—Are you costing them?

**Mr Campbell**—We would need to do that in consultation with the department of finance and the Department of Climate Change.

**Senator BOSWELL**—When will the results of those be available?

**Mr Campbell**—I am not sure when the formal costings will be available at this stage.

**Senator BOSWELL**—Will they be made public?

**Mr Campbell**—That will be a matter for the government.

**Senator JOYCE**—How can you cost them when they have not been drawn up?

**Mr Campbell**—We are working on them, as with other publicly available material that has been provided to the government.

**CHAIR**—That is why they have not finished it.

**Senator Sherry**—Presumably by your leader.

**Senator BOSWELL**—Our leader is Warren Truss.

**Senator Sherry**—The leader of the coalition, or apparently a coalition.

**Senator CAMERON**—Is Malcolm not your leader?

**CHAIR**—We are short on time, so Senator Boswell, do you have more questions?

**Senator BOSWELL**—Can I just expand on that for a second? If you are able to provide to the committee the information on the costing of the government's ETS, why would you not be able to give the costings of the coalition's ETS?

**Senator Sherry**—We will take that on notice, because it constitutes advice to the minister.

**Mr Ray**—I think Mr Campbell's answer was that we have not done the work yet.

**Senator Sherry**—Yes.

**Mr Ray**—So it is a bit premature to ask why we have not provided it.

**Senator BOSWELL**—My question is when will the work be completed?

**Senator Sherry**—I do not think the witness knows, because he has not finished.

**Senator BOSWELL**—Do you have all of the information that you require?

**Mr Campbell**—That will be clearer as we progress through that work, and we may need to seek further information.

**Senator JOYCE**—Have you been delivered the amendments?

**Mr Campbell**—We have seen material provided in a letter from the Leader of the Opposition.

**Senator BOSWELL**—Are they in amendment form or are they just in a wish list form?

**Mr Campbell**—That has been provided to the government?

**Senator BOSWELL**—Yes?

**Mr Campbell**—I am not aware that that letter from the Leader of the Opposition is public.

**Senator Sherry**—Shouldn't you be asking your own leader, the leader of the coalition, for this information?

**Senator BOSWELL**—I may well do that.

**Senator Sherry**—I find it quite extraordinary that you front up to estimates and try to obtain this sort of information from the government, from Treasury.

**Senator BOSWELL**—Well, that is right. That is my prerogative to ask—

**Senator Sherry**—Of course it is. I just find it extraordinary. I have never confronted this before in my political—

**Senator BOSWELL**—You might find it extraordinary, but I am asking you questions: what is our coalition—

**Senator Sherry**—Yes, you are entitled to ask the question.

**Senator BOSWELL**—I am entitled to ask the question, and I believe I am entitled to your answer.

**Senator Sherry**—Yes. I am just shocked that you cannot get that information from Mr Turnbull's office, or the shadow's office.

**Senator BOSWELL**—Were those presented to you in amendment form or just in a general form?

**Mr Campbell**—What do you mean by ‘in amendment form’?

**Senator BOSWELL**—Well, amendments are—

**Mr Campbell**—The technical legal form for the legislation?

**Senator BOSWELL**—Technically legally put together by—

**Mr Campbell**—I have not seen it in a form as an amendment to legislation.

**Senator JOYCE**—That is all right.

**Senator BOSWELL**—Going to Copenhagen in nine weeks time or whenever it is, how much money has been allocated to get the developing countries to agree to come on board on climate change?

**CHAIR**—I think that is a question for the climate change people.

**Senator BOSWELL**—No. They flicked it. You get in the badminton court here. You get hit from one end of the court to the other. Well, we have been hit over to this side of the court. They told me to ask you.

**Senator Sherry**—I will have to take it on notice. There may be someone in the international area that could help. This is not the right area for that. I will check, but otherwise I will have to take it on notice.

**Senator BOSWELL**—We were told that there was an amount of I think \$200 million and \$150 million allocated, but there may be more.

**Senator Sherry**—Sorry, by whom?

**Senator BOSWELL**—Ms Wong told us that. She said there may be—

**Senator Sherry**—Have you asked her?

**Senator BOSWELL**—Yes, I have.

**Senator Sherry**—She would be the right person to have asked.

**Senator BOSWELL**—But she said there may be more, and to ask down here.

**Senator Sherry**—Well, I think we might check and see what—

**Ms Quinn**—My understanding is that the \$150 million and \$200 million were existing commitments on international programs in the Department of Climate Change, but that Minister Wong has not made a determination or any public statements about the financing issue around Copenhagen and that she took that question on notice at her estimates hearing.

**Senator BOSWELL**—Now I am asking you: has your department made any provision to allocate a sum of money—

**Mr Ray**—It is not a matter for the department to make a provision; it is a matter for the government and Minister Wong has already taken the question on notice. So I do not think that we have anything to add.

**Senator BOSWELL**—Thank you.

**Senator EGGLESTON**—I just have some quick questions for Ms Quinn. You said that, on the Garnaut modelling, Australia did better without the involvement of other countries. Does that imply that his modelling is that without carbon trading with other countries we do better? Could you clarify that?

**Ms Quinn**—The scenario that I was referring to is called ‘Wait and See’, and it was published in the supplementary Garnaut review in August 2008, from memory. In that, they did a scenario where there was no comprehensive international agreement, Australia faced a carbon price broadly similar to what it would otherwise do in a CRPR minus five, but that there was no mitigation action by other countries. In that world, Australia did slightly better in GNP terms because our coal exports and other emission intensive exports continued to grow to countries that were not taking on emission reduction policies.

**Senator EGGLESTON**—When you say ‘mitigation action’, you mean having an emissions trading scheme?

**Ms Quinn**—No, I mean no mitigation action.

**Senator EGGLESTON**—Yes, but that is what mitigation means, does it not?

**Ms Quinn**—No, mitigation action can come through various different forms—renewable energy targets, regulations, mandating, other elements of regulation or putting a price on emissions.

**Senator EGGLESTON**—Right. So it is not specifically an ETS but it might be renewables and such things?

**Ms Quinn**—Correct.

**Senator EGGLESTON**—But it would include an ETS?

**Ms Quinn**—It may or may not include an ETS.

**Senator EGGLESTON**—May or may not, I know. Are these assumptions similar to Garnaut’s or the same as those used by the Treasury in its own assessments?

**Ms Quinn**—Quite a lot of the modelling for the Garnaut review was provided by the Australian Treasury. Some supplementary scenarios were undertaken by the Centre of Policy Studies at Monash University using the same input assumptions and modelling assumptions. So yes, they were very broadly similar.

**Senator EGGLESTON**—You said that personal income would increase, but is this real income or is it just the natural increase in income through inflation? In other words, is it actually a real assessment of income increasing, or are you just implying that income will go up as it tends to over the years anyway?

**Ms Quinn**—No, GNP per capita is expected to increase under all scenarios. By the time we get to 2020, 2050, the real per capita income of Australians is expected to be substantially higher than what it is today. This is through continued growth in productivity.

**Senator EGGLESTON**—The other thing you said was that employment would also increase. Are you referring there to including so-called green jobs in your assessments?

**Ms Quinn**—We find that employment grows at a national level over our modelling, and that includes all different sectors of the economy.

**Senator EGGLESTON**—But did you specifically include the so-called green jobs?

**Ms Quinn**—We specifically include all elements of the economy, so to the extent that there are low emission sectors that expand and high emission sectors that grow more slowly, it captures the entire economy.

**Senator EGGLESTON**—Evidence was presented earlier in the year to this committee by Concept Economics that, while there would be full employment maintained to compensate for loss of employment in the mining industry, as was presented by the Minerals Council of Australia, the complementary green jobs which were to maintain full employment would be lower paid. Is that something that you would agree with? That was modelling done by Concept Economics?

**Ms Quinn**—I am not aware of those results being put in the public domain. There is no differentiation of real wages in the Concept report that I am aware of. The level of real wages varies across industries, as does the prospective growth rate of real wages in industries. What we find in the data is that capital intensive industries that have higher levels of productivity typically have higher levels of real wages, so if there was a move from a capital intensive industry to another capital intensive industry, then precisely what would happen to the real wages would depend on the relative productivity levels. My expectation is that the provision of electricity, for instance, is capital intensive no matter what source of electricity is used. Coal and gas and wind, for instance, are all capital intensive industries, so I am not sure that there would be significant variation there in substituting between them. But if you were to move from capital intensive industries to labour intensive industries there may well be a change in the level of real wages. But they are the sorts of moves that happen for all different policies and growth rates through time, and it depends on the underlying productivity of an industry.

**Senator EGGLESTON**—Obviously in this case the move was from highly paid mining industry jobs to other jobs of probably different sorts, certainly not in the mining industry, and the presumption was that they would be lower paid. But thank you very much, Ms Quinn.

**Ms Quinn**—But it depends exactly where they go to—

**Senator EGGLESTON**—No, I understand that.

**Ms Quinn**—Because forestry is a very capital intensive industry as well.

**Senator BUSHBY**—I am not sure that you will be able to answer my first question, because you may not be allowed to yet, but when the budget was announced in May this year it contained a lot of predictions that the revenue and expected expenditure would be impacted significantly by the global financial crisis and, particularly from your perspective, the expenditure. Table 1 on page 4.4 of Budget Paper No. 1 shows parameters and other variations taking some \$175 billion out of the budget over four years. Are you able to tell me whether you consider that that cumulative figure over the four years is likely to be accurate, given what you know now about the last five months?

**Mr Ray**—The government will release revised estimates with the mid-year outlook.



**Senator BUSHBY**—I am not asking for the figures that will be in the mid-year outlook, but until that happens, can you give me any indication of whether you think the \$175 billion cumulatively will be about right?

**Mr Ray**—There are so many things that move around, but I think it is safer for us to just stick with the fact that the government will publish detailed estimates in the mid-year outlook.

**Senator BUSHBY**—Dr Henry last night was willing to make some sort of general comments about unemployment figures.

**Mr Ray**—On unemployment, yes.

**Senator BUSHBY**—He said they were not likely to be as indicated in the budget papers. Are you prepared to make the same sort of general comments without specifically naming figures?

**Mr Ray**—I am prepared to say that unemployment benefits will be lower than we have in the budget papers.

**Senator BUSHBY**—I will move on. I thought that might be the case. There was some discussion earlier when Senator Joyce asked some questions about debt. I missed this, and I apologise if this question was asked, but did you say what the total net debt position is?

**Mr Ray**—I think it is in the final budget outcome. Net debt at the end of June was minus \$16.1 billion.

**Senator BUSHBY**—That is the total net debt?

**Mr Ray**—Yes.

**Senator BUSHBY**—So we have passed from a net asset position into a net debt position?

**Mr Ray**—No, it is negative, so we are still in a net asset position.

**Senator BUSHBY**—That is at the end of June. How often is that figure updated internally, apart from mid-year. I am not asking what the answer is, but how often do you have access to information that updates that for your purposes?

**Mr Ray**—Not that often, because calculating net debt is a very complicated thing which requires a full estimates update from all agencies on all balance sheet items. So it is not done very often, generally twice a year. We do have a model, about which we have published some details, that gives us some projections of net debt which we can run, but in terms of an accurate net debt figure, it is done at the estimates update, so for the mid-year outlook, for budget and then for the final budget outcome.

**Senator BUSHBY**—Dr Henry gave a speech to the Australian Research Alliance for Children and Youth conference on 3 September this year, and in that speech he made a statement that I suspect most Treasury officials would agree with. He said:

To start with, like all government spending, there is a need to ensure that any activity is cost effective. Government spending that does not pass an appropriately defined cost-benefit test necessarily detracts from Australia's wellbeing. That is, when taxpayer funds are not put to their best use, Australia's wellbeing is not as high as it otherwise could be. It is important, therefore, that policy advisers are able to access quality evidence and use robust frameworks to assist governments to judge the relative merits of alternative policies.

Is that something that Treasury generally agrees with and tries to apply wherever possible?

**Mr Ray**—Yes.

**Senator BUSHBY**—Has Treasury conducted or reviewed properly conducted cost-benefit analyses on the NBN?

**Mr Ray**—That is a question for our markets group colleagues who look after the NBN. They will be here later.

**Senator BUSHBY**—It is, but I would have thought it is an appropriate question to do with the fiscal approach regarding the spending of government moneys, given that it is a general principle that properly conducted or reviewed CBAs are a desirable thing for the Australian people?

**Mr Ray**—It is a question for our markets group colleagues. I am sure they will come with an answer.

**Senator BUSHBY**—Has Treasury conducted or reviewed properly conducted cost-benefit analyses on the Building the Education Revolution spend?

**Mr Ray**—We provided advice on the Building the Education Revolution during the course of its development.

**Senator BUSHBY**—Was that advice in the form of a cost-benefit analysis?

**Mr Ray**—Certainly the advice took into account costs and benefits of the program. I do not quite know what you mean by a formal cost-benefit analysis.

**Senator BUSHBY**—Well, to use the secretary's words, 'an appropriately defined cost-benefit test'.

**Mr Ray**—In the case of the Building the Education Revolution, it is up to the government to judge how good our advice was, but we provided them with quite a lot of advice.

**Senator BUSHBY**—Was that advice provided prior to the announcement?

**Mr Ray**—Yes.

**Senator BUSHBY**—Has Treasury conducted or reviewed properly conducted cost-benefit analyses on the Computers in Schools project?

**Mr Ray**—That was an election commitment.

**Senator BUSHBY**—That should not excuse the need for a proper cost-benefit analysis.

**Mr Ray**—So it is in a slightly different category. More than likely we provided some advice on it in the past, but I am not as familiar with it. I can take it on notice to see exactly what we provided, but we would have provided some advice on that project.

**Senator BUSHBY**—If you could take it on notice, that would be appreciated.

**Mr Ray**—Yes.

**Senator BUSHBY**—Has Treasury conducted or reviewed properly conducted cost-benefit analyses on the COAG infrastructure projects?

**Mr Ray**—Again, we provided advice on those projects. That advice would have taken into account the costs and potential benefits of them.

**Senator BUSHBY**—Finally, has Treasury conducted or reviewed properly conducted cost-benefit analyses on the budget infrastructure package?

**Mr Ray**—Similarly, we provided quite a lot of advice to the government on the budget infrastructure package, and that would have included the costs of the elements of the package and advice on potential benefits.

**Senator BUSHBY**—Are any of the advices that you have referred to, or the cost-benefit analyses, publicly available?

**Mr Ray**—The short answer is in general our advice is not publicly available, but it may be that some material has been released on that very wide ranging question, but I am happy to take it on notice to see if anything is available publicly.

**Senator BUSHBY**—Probably through you, minister, where the cost-benefit analyses have been provided to the government on any of those spends and have not been fully publicly released, will the government make those publicly available?

**Senator Sherry**—As Mr Ray has indicated, costs and benefits are part of advices given to government, but I will refer that matter to the Treasurer, and we will take it on notice.

**Senator BUSHBY**—Is this the right place to ask about Operation Sunlight?

**Mr Ray**—No.

**Senator Sherry**—Yes, it is fine, actually.

**Mr Ray**—Well, it depends what the question is, sorry.

**Senator Sherry**—It is just that I was sitting in finance, and I do recall some questions about Operation Sunlight.

**Mr Ray**—It is mainly the responsibility of the department of finance.

**Senator BUSHBY**—But to some extent you have an input?

**Mr Ray**—But to the extent that we are involved, this is the right place to ask about it.

**Senator BUSHBY**—My questions were particularly general, so they may well be more appropriate for finance. What progress has been made in Operation Sunlight since last estimates?

**Mr Ray**—I think that is probably for finance.

**Senator Sherry**—I think Senator Coonan asked a question, and there was quite a long discussion about a list of issues and implementation.

**Senator BUSHBY**—My other question probably is relevant to you, and that is: how much has been spent on Operation Sunlight to date?

**Mr Ray**—Again, that is a question for the department of finance, I would have thought.

**Senator Sherry**—The finance minister is actually the responsible minister for Operation Sunlight.

**Senator BUSHBY**—But the spending on it is a fiscal expenditure of government?

**Senator Sherry**—Yes, but the expenditure is within the finance department, so that is an issue for finance.

**Mr Ray**—I will take it on notice for you. It is not the right estimates, but I will still take it on notice and pass it on to finance.

**Senator BUSHBY**—Thank you. That will do me.

**Senator XENOPHON**—Given that the people behind Frontier Economics were responsible for designing the first mandatory emissions trading scheme for the New South Wales Government, the GGAS scheme about 10 years ago, and implementing it and that they have done this modelling in relation to what is clearly the most important environmental and economic debate we have had in terms of an emissions trading scheme, why is it that the government will not allow Frontier to have a direct meeting with Treasury and its modellers to thrash out what differences they see in terms of their respective modelling of such an important debate?

**Senator Sherry**—I will put that issue to the Treasurer, and I will take it on notice in doing that.

**Senator CAMERON**—Mr Ray, Dr Henry gave evidence to the Senate Economics References Committee on the stimulus package about 10 days ago. I want to quote part of that evidence and get some comment from you on that. Dr Henry said:

I think, in through-the-year terms to the June quarter of 2009, the Australian economy grew by 0.6 per cent, and our view is that without the fiscal stimulus the Australian economy would have contracted by 1.3 per cent through the year to the June quarter 2009. I think a contraction in the economy of 1.3 per cent through the year would be regarded by most people as a fairly significant recession.

When we hear this argument about cost-benefit analyses, the cost to the economy is huge if we go into recession, and the cost to individual communities and the workforce is huge if we go into recession. Could you just deal with that issue in terms of cost-benefit analyses and Dr Henry's view on that issue?

**Mr Ray**—I have perhaps a couple of remarks. When we were giving advice to the government on the Building the Education Revolution package, for example, that advice would very much have taken into account the macroeconomic angles which you are referring to in your question and quote from Dr Henry. When we talk about looking at costs and benefits, we are doing it in quite a wide-ranging way, and we are looking at what we call wellbeing. We take into account not just narrow dollars and cents but a wide range of factors. So when we are assessing policy options for the government, including distributional effects, both currently and through time and spatially, et cetera, and particularly in the context of something like the Building the Education Revolution, we most certainly were taking into account macroeconomic costs and benefits.

**CHAIR**—Thank you to the Fiscal Group for coming in this morning. We will adjourn until 11.18, when we will have the Revenue Group of Treasury.

**Proceedings suspended from 11.00 am to 11.18 am**

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**Australian Taxation Office****Treasury**

**CHAIR**—We might make a start. Do Treasury or the Australian Taxation Office have an opening statement that they would like to make? Mr D'Ascenzo?

**Mr D'Ascenzo**—No, I do not.

**CHAIR**—We will start with questions. Senator Abetz.

**Senator ABETZ**—Firstly, I refer to the huge success of the luxury car tax regulation for four-wheel drives that was negotiated with Senator Fielding. I do not expect taxation to comment on that, but how many people have now claimed in relation to the four-wheel drive exemption as was regulated for primary producers?

**Mr Konza**—There have been 228 refunds, of which 226 applied to rural use of four-wheel drives and two relate to the use of four-wheel drives in the tourism industry.

**Senator ABETZ**—There has been an actual doubling of the tourism number since we met last time?

**Mr Konza**—I do not remember the last figure. I cannot comment.

**Senator ABETZ**—It was one for the tourism sector. This is a rip-roaring success, is it not? You have doubled the figures from one tourism operator to two tourism operators ever since these regulations were introduced when?

**Mr Konza**—I am not sure, off the top of my head.

**Mr Parker**—The regulations came into effect from 1 July 2008.

**Senator ABETZ**—When are those figures up to? How recent are they?

**Mr Konza**—Can you give me a moment?

**Senator ABETZ**—Yes. No rush.

**Mr Konza**—They are not leaping out at me, so may I supply them shortly?

**Senator ABETZ**—The last figures I had were as at 14 July, where I was told there were 192, of which 191 were issued to primary producers and one to a tourism operator. Undoubtedly another tourism operator has found out about this wonderful scheme between 14 July 2009 and today, which is a great take-up rate, I must say.

**Mr Konza**—Those figures were from 23 September.

**Senator ABETZ**—What is our prediction now in relation to luxury car tax revenues? This was another great success story. We increased the tax, indicating that we would get a lot more revenue, and of course it has gone backwards. Are we on track or are we now picking up again on luxury car tax? What are our predictions?

**Mr White**—The budget estimate is still the latest estimate.

**Senator ABETZ**—I am sure that is the case, but are there some real income figures?

**Mr White**—On Friday the monthly financial statements were released for the months of July and August.

**Senator ABETZ**—Is the decrease slowing down?

**Mr White**—Bear with me.

**Senator ABETZ**—Was that document made available publicly?

**Mr White**—It is released by the finance minister.

**Senator ABETZ**—What is the document called?

**Mr White**—It is the monthly financial statements.

**Senator ABETZ**—Which page?

**Mr White**—I am now about to tell you it does not actually separately list luxury car tax.

**Senator ABETZ**—I had some trouble last time trying to disaggregate in relation to luxury car tax and I think that is why it was taken on notice.

**Mr White**—We might have to do that again.

**Senator ABETZ**—If we can do that again I would be much obliged to you.

**CHAIR**—Senator Eggleston.

**Senator EGGLESTON**—Is this an appropriate point to ask about flow-through shares? Since the last estimates, when it was stated that the department was working with a number of stakeholders on the appropriate design of this scheme for flow-through shares, what advice has the Department of the Treasury provided on the implementation of a flow-through shares scheme?

**Mr Parker**—The flow-through shares scheme is being considered as part of the Australia's Future Tax System, otherwise known as the Henry review process, and so it is work in progress at this stage.

**Senator EGGLESTON**—Is this going to delay the introduction?

**Mr Parker**—My understanding is that the government has asked the Future Tax System review to provide it with advice, and it will take its decision following that.

**Senator EGGLESTON**—Obviously we have to accept that at that point. There is really nothing else you can say until the Henry review comes out. I suppose that applies also to the question of where royalties are paid, which is an issue I believe the Henry review is considering.

**Mr Parker**—I did not quite hear that.

**Senator EGGLESTON**—Mineral royalties.

**Mr Parker**—Same question, yes.

**Senator EGGLESTON**—It is almost a Boston Tea Party issue in Western Australia. I should not forewarn you, but there we are.

**CHAIR**—Senator Bushby.

**Senator BUSHBY**—In relation to BAS lodgements in 2009, have there been any instances where a taxpayer who was not under investigation by the ATO who was entitled to a refund has had their account put into credit instead of receiving their refund? Similarly, were there

any taxpayers not under investigation by the ATO who were entitled to a refund but instead of receiving their refund were notified that their refund will be credited to their account with the ATO?

**Mr Quigley**—It is a part of the system that, if there are outstanding debts from one particular activity or revenue head and then there are credits that come in, they are offset against the existing debits. That is a normal part of what we call a running balance.

**Senator BUSHBY**—Is that the only instance when that would happen?

**Mr Quigley**—What was the first scenario?

**Senator BUSHBY**—Where a taxpayer not under investigation was entitled to a refund and instead of receiving a refund they had their account put into credit.

**Mr Quigley**—That is certainly not my understanding of how the system would work. That is not to say that there might not be special circumstances. I could take that on notice.

**Senator BUSHBY**—If you could take that on notice to see whether that actually has occurred with any taxpayers it would be much appreciated. In doing so could you explain why those taxpayers were not sent a refund, how many taxpayers were affected, what was the total amount that was credited to taxpayers' accounts rather than refunded and what effect that might have had on the ATO's cashflow?

**Mr Quigley**—Can I just clarify one thing. What period are you looking at?

**Senator BUSHBY**—Over the last financial year, the last 12 months. How many additional staff—permanent, part-time, casual or contractors—did the tax office receive funding for to administer the tax bonus?

**Mr D'Ascenzo**—While Mr Quigley looks up the specific details, at an aggregate level I think the funding was \$50 million overall to include the full range of activities that are associated with the tax bonus. I think the ultimate cost ended up being slightly more than that.

**Senator BUSHBY**—For the overall cost of administration?

**Mr D'Ascenzo**—That is right.

**Senator BUSHBY**—What did it actually end up as?

**Mr D'Ascenzo**—I think it was something like \$52.5 million.

**Senator BUSHBY**—Still within scale but a bit over the top.

**Mr D'Ascenzo**—Within reasonable tolerances.

**Mr Quigley**—I can answer that a bit more specifically. It was \$51.674 million. Would you like that broken out into the different categories?

**Senator BUSHBY**—That would be appreciated, yes.

**Mr Quigley**—There are quite a number of them.

**Senator BUSHBY**—What I am really interested in is the staff, the cost of people.

**Mr Quigley**—I have them broken down into different functions. For instance, processing and accounts was \$17.39 million. Client contact and supporting help tools was \$13.664 million. The project team is \$1.065 million, which would be the bulk of the actual direct

employee costs. Tax agent support is \$1.816 million; marketing and communication, \$263,000; and system changes, \$976,000. There were indirect costs that were on-costs of that, including things like workers compensation and property expenses, and information and technology, which was \$6.2 million. Then there was administered funding, basically the media campaign, which was \$10.3 million.

**Senator BUSHBY**—How many existing staff were used to administer the tax bonus?

**Mr Quigley**—No additional staff were employed to administer the bonus.

**Mr D'Ascenzo**—No, we actually did have some non-ongoings coming in—something like 217 non-ongoings added to our staff levels. Other than that, the processing that Mr Quigley pointed out would have come through our normal staffing position, otherwise we would have moved staff from certain tasks to other tasks.

**Senator BUSHBY**—Those tasks they were moved to were ones where there is a natural progression of things that you are doing within the tax office presumably, and there was no longer the need for those staff to be focusing on what they were focusing on before?

**Mr D'Ascenzo**—I think there was a need. It is a question of having to respond quickly to the needs of getting the tax bonus out quickly. We actually prioritised this work in advance of other work. You will see over the year we had a lot of catch-up in terms of other work.

**Senator BUSHBY**—But if you were given an extra \$50 million to administer it, why did you need to prioritise when it only costs a little bit more?

**Mr D'Ascenzo**—Because it takes time to recruit people along the way.

**Senator BUSHBY**—So, have you used the other \$50 million to help recruit to those areas that were needed elsewhere?

**Mr D'Ascenzo**—We had the extra work to be done and that extra work required a certain amount of resources. In relation to the other work, some of which had to be continued to be done, we had to reprioritise that. We did recruit a number of people in terms of a non-ongoing for the short period of the bonus and then we went through a process of efficiency/productivity improvements to try to reduce the number of people that we had overall. So, rather than then having \$50 million worth of extra people—not that it would have been that; it would have been half that perhaps, and then a number of people that would be no longer required because of our efficiency and productivity—we were able to merge the two together.

**Senator BUSHBY**—Presumably there are a lot of people who you were paying using the \$50 million who you would have been paying if the tax bonus situation and the \$50 million had not arisen?

**Mr D'Ascenzo**—We would have got to a position where some of those would have had to go through voluntary redundancies, because due to the efficiency processes they would be over requirements.

**Senator BUSHBY**—So, basically it delayed some of that effect?

**Mr D'Ascenzo**—Not only did it delay it; it actually enabled us not to have to go down that route for some part of our staff.



**Mr Butler**—We do not have exact numbers here today for staffing, but I have been informed that it varied between 200 to 300 at any one time. There was quite an important systems build, there was people there, there was media campaigns—those sorts of things.

**Senator BUSHBY**—I understand there are additional costs that are not staff related.

**Mr Butler**—What the commissioner was saying was that we use a number of non-ongoing staff every year for our peaks. We had in our plans to release a number of those non-ongoing staff and we kept them onboard longer because of the tax bonus. That actually helped in a way to keep a more even pattern.

**Senator BUSHBY**—Of the existing staff that were redirected to administer the tax bonus, are you able to set out which sections they were employed in prior to their transfer? I am happy for you to take this on notice.

**Mr D'Ascenzo**—They came from a lot of areas, but mainly from our operational areas. The people processing returns and some of our call centre people. Mr Butler might have some other details. The bulk of it would be from there.

**Senator BUSHBY**—I am conscious of the fact that you said that you have had to prioritise. Has that had any other impacts elsewhere within the tax office during the 2008-09 year? For example, have there been any delays in processing lodgements and other documents and payments throughout the year as a result?

**Mr D'Ascenzo**—We would sort of say that we were stretched because of that, mainly to divert the attention to other activities. I think that proposition was one where we had a fair bit of catch-up for a lot of the year. I think we have done pretty well in terms of aggregate outcomes on most bases. In looking at our standards, we met 22 out of 27, and so we only marginally missed the other five, and that was partly attributable to that redirection of resources.

Another area was that we reduced our service standard, say, for dealing with paper returns or paper amendments from a 28-day turnaround to a 56-day turnaround. That was partly to compensate for that shift. There were some management activities that had to be taken into account. We took the latter activity, firstly, because of the need to do so. Secondly, it was perhaps to take the opportunity to promote people to use online approaches rather than paper, which ultimately is more expensive for them and the community.

**Senator BUSHBY**—What were the five areas where you did not meet the requirements?

**Mr D'Ascenzo**—Again, if you bear with me, I can find those out for you. That is a lot of paper.

**Mr Butler**—I can probably start answering this question. The areas included some of our registrations work for tax file numbers and the Australian business register. We had some shortfall there.

**Senator BUSHBY**—Shortfall in what sense?

**Mr D'Ascenzo**—For example, in registrations we have a target of 93 per cent being registered in 28 days and our achievement was 87.4 per cent, so it is a shortfall in that sense. Another example is when we do a tax audit we have a target that in 99 per cent of cases

people are informed within seven days of the completion of the audit by way of a finalisation advice, and that was 96.9 per cent rather than 99 per cent. My apologies, a couple of those figures I quoted were the 2009-10 figures, this year-to-date, rather than the year ending 30 June 2009. I can just double-check those. For business tax returns we had a target of 80 per cent within 56 days and we achieved 73.4 per cent. We have a long list of things here.

**Senator BUSHBY**—What I really need is the nature of the reason why you did not meet the targets. You do not need to go through the whole list. Just if it was a delay in meeting processing—

**Mr D'Ascenzo**—As I said, we had been stretched in relation to that. It is not just the tax bonus. We also did a fair bit of extra work associated with the Victorian bushfires and the Queensland/New South Wales flood. We used those resources on priority issues as they arose. As Mr Butler said, we took onboard some non-ongoing, we kept some non-ongoings that we otherwise would have released because of the extra funding that we received for the tax bonus, but all of that stretched us. The main area that I have here is paper tax returns for non-individuals; we were 6.6 per cent below our benchmark. For paper amendments we were 3.4 per cent below benchmark. For audit finalisation advice—in other words, within seven days telling you that we are finished an audit—we were 2.2 per cent below benchmark. We also missed the time it took for us to respond to some complaints and to acknowledge some complaints.

**Senator BUSHBY**—As you mentioned, you have been stretched for a number of reasons, but part of that is quite clearly the tax bonus requirements that have been placed upon you for the year. That has impacted on your ability to meet all your service requirements, but you have done the best you can given the circumstances by prioritising. How many call centres does the tax office operate in Australia?

**Mr D'Ascenzo**—I think it is 10.

**Senator BUSHBY**—I am quite happy for you to provide this information on notice rather than—

**Mr D'Ascenzo**—I think we might have the detail.

**Senator BUSHBY**—Where are they located and how many staff are in each of them?

**Ms Vivian**—We have 10 call centres. They are located across Australia. We have one located in Northbridge, Western Australia, one located in South Australia and two located in Tasmania—one in Burnie and one in Hobart.

**Senator BUSHBY**—There is Parramatta in Sydney.

**Ms Vivian**—In Queensland we have Upper Mount Gravatt and Chermside; in New South Wales we have Parramatta and Penrith; in Victoria they are in Moonee Ponds and Queen Street. With Burnie and Hobart and WA and South Australia, all up that comes to 10. In terms of overall staffing in our call centres, it does vary during the year because we have a lot of staff coming in and off during the year.

**Senator BUSHBY**—In terms of having a lot of staff coming in and off, is that part of your strategy or part of the nature of call centres that there is a reasonable turnover?

**Ms Vivian**—It is very much really tied up with our peaks. We would be one of the few call centres in Australia that has such a peak for such a small part of the year. In particular, it is aimed at how we can deal with those peaks. Broadly, in terms of FTE in our call centres it would average out at around about 1,500 during the year.

**Senator BUSHBY**—That is across the 10?

**Ms Vivian**—Yes. That also includes support staff as well.

**Senator BUSHBY**—How many actually take calls from taxpayers? If you are able to give a breakdown of the average number of staff in each of those 10 call centres it would be appreciated, but I am happy to put that on notice.

**Ms Vivian**—As of September 2009, in Burnie we would have about 53 staff, in Hobart about 30—I am also referring to FTE. We have a lot of people who come in part time and work casual hours. Northbridge, 76; Penrith, 219; Upper Mount Gravatt, 117; Chermside, 40; Moonee Ponds, 120; Parramatta, 131; Queen Street, 91; and Weymouth, 75.

**Mr D'Ascenzo**—Parramatta and Moonee Ponds respectively won the New South Wales and Victorian Call Centre of the Year awards.

**Senator BUSHBY**—Congratulations. That is no doubt well deserved. What percentages of the staff in the call centres actually take calls?

**Ms Vivian**—Those numbers I gave you were representative of the client service people. That is the FTE numbers taking calls.

**Senator BUSHBY**—I should be able to go through that answer, add all of those up and see how many there are compared to the—

**Ms Vivian**—Roughly, it adds up to 1,148 operational staff and 234 enabling staff. They would be the people doing the analysis and those things.

**Senator BUSHBY**—Do you have any information showing what the average waiting time for taxpayers is who call?

**Ms Vivian**—Yes. We deal with tax agents on a priority queue where X percentage of their calls have to be handled in two minutes—80 per cent of individuals. I might take that on notice.

**Mr D'Ascenzo**—Last year we had a five-minute benchmark for general telephone enquiries in terms of waiting time and we met that on 82.6 per cent of occasions. In relation to tax practitioner, where we provide them with a two-minute benchmark, we met that on 91.8 per cent of occasions.

**Ms Vivian**—Year to date, this financial year—

**Mr D'Ascenzo**—My figures are in relation to the last financial year.

**Ms Vivian**—Year to date, the average waiting time for a tax practitioner is 37 seconds. For an individual or a general taxpayer ringing us up it is about 2 minutes 32 seconds. We have introduced some new technology that is really helping us this year. It is something we call auto call-back. If they are waiting for a period in the queue the individual can leave something

and, therefore, we will call them back when we get to their place in the queue, so they are not hanging on the phone.

**Senator BUSHBY**—How long into the phone call does that actually happen?

**Ms Vivian**—I think that can kick in at around five minutes.

**Senator BUSHBY**—But that does not happen until—

**Ms Vivian**—I will check when we actually do that. It is when we expect them to be in the queue for longer than five minutes that we give them that option.

**Mr D'Ascenzo**—I think it is up front in those sorts of situations.

**Senator BUSHBY**—Pardon?

**Mr D'Ascenzo**—I think it is up front. If our technology indicates that it will take over five minutes we ask them whether they would like to leave a message.

**Senator BUSHBY**—That would actually look at how many people were in the queue, how many operators are working at the time—all those sorts of things.

**Mr D'Ascenzo**—That is what the system does.

**Ms Vivian**—What the demand is, and in some cases they can have a choice about electing a time that we will call them back.

**Senator BUSHBY**—I imagine that software would be too complex to answer a question like how many people would have to be in a queue before they got that message?

**Mr Butler**—The software does allow us to do quite a lot of analysis based on historic patterns and so on. For example, we would know that certain times of year have a propensity for different types of phone calls and things. We are also close to putting in place some further technology that Ms Vivian referred to—the call-back. We are putting in place a whole new telephony infrastructure that will actually allow us to route our calls right across Australia. At the moment we have some limitations on that. That will, again, allow us to meet these peak demands and things more effectively and reduce wait times more effectively.

**Senator BUSHBY**—What percentage of callers who are offered that option actually take up the option to have a call back?

**Ms Vivian**—The take-up rate is about 48 per cent of the people offered that solution.

**Senator BUSHBY**—How long does it take for the ATO to get back to them?

**Ms Vivian**—Effectively, when they are in the queue, depending on how busy we are, I am assuming it could be a couple of minutes or five to 10 minutes, but they may also take the option to say for instance, 'I am about to head out the door so can you call me back at this time?'

**Senator BUSHBY**—I know that this is a new initiative that you have put in place, but it would seem to me that if people do take up this option they do not want to hang around for days waiting for the ATO to ring them back. It would be appropriate to have a service standard of some sort that applies to the tax office getting back to them.

**Ms Vivian**—Basically, if they have elected for when it is in their queue, then it just comes up as soon as we get to them in the queue.

**Mr D'Ascenzo**—Actually it is not. It is automatic, so it is actually dialled out at the time when the queue is free.

**Senator BUSHBY**—That may be some time, though.

**Mr D'Ascenzo**—It estimates the likely waiting time. We can say to the taxpayer, 'It is likely to be 10 minutes. We can ring you back then if you wish.'

**Senator BUSHBY**—They might say, 'We expect that you will be on hold for more than five minutes. If you would like us to ring back we estimate we will call you back in 25 minutes', or something like that?

**Mr D'Ascenzo**—Yes, that is right. Then it automatically rings back.

**Ms Vivian**—Then if they estimate to call back, 'Could you call me back at 6 o'clock?', we will give them some time frames that they can book. In its early days when we introduced it we saw a couple of complaints where people said, 'I left a time and you did not call us back.' We certainly worked through those and that turned out to be a bit of an issue on how we would implement it, and we fixed that up.

**Mr D'Ascenzo**—There are two situations. This is where people have asked, 'No, don't ring us back when the queue finishes. I am going to be busy. But I would like to be called back', and then it becomes much more of a manual exercise. That is why Ms Vivian is saying that we are trying to build our processes so that, once we have that, that is acted upon in a timely manner.

**Ms Vivian**—It has improved our speed of answer by about 24 per cent for these people, so it has been very positively received by the community.

**Senator BUSHBY**—That will probably feed into my next question, and that is: what is the overall capacity of the call centres to actually deal with enquiries? That may well have improved the efficiency and enabled you to actually put more people through? That is probably a hard question to answer, but I am sure you have a way of answering it.

**Mr D'Ascenzo**—We do something like 12 million telephone calls a year. It is a very large operation.

**Senator BUSHBY**—Are you able to provide a breakdown by month?

**Mr D'Ascenzo**—We have that. We have all of those details. As Ms Vivian said, we have very high peaks and troughs.

**Senator BUSHBY**—That is why I am asking you.

**Mr D'Ascenzo**—We have all those stats and we have those metrics. We can show you last year's outcome and provide that to the committee if you wish.

**Mr Butler**—Just in a contextual sense, when we reach a certain peak, we know our wait times become longer, and we plan our resourcing around a whole range of factors. Certain days of the week, Monday mornings, are really busy so we will have more people on the phones, and we anticipate that.

**Senator BUSHBY**—What about lunchtimes? It would seem to me a lot of taxpayers would be able to make their—

**Mr Butler**—Yes, lunchtimes earlier in the week.

**Senator BUSHBY**—So, you actually have extra staff available at lunchtimes?

**Ms Vivian**—As the commissioner said, it is very complex. We are reviewing the number of calls we expect to get in both on a daily and then almost hourly basis to check that we have staff there to deal with it. Now, in saying that we also have what we call an external service provider that works with us. We also negotiate with them that we will stream calls to them during the year. We also use them to help us with peak management. Then if we really forecast that, say, the end of next week is our very busy week—almost the last week of the tax year, coming up to 31 October lodgement—within the operational area we also have staff skilled in other areas that will move in to the call centres. It is a very dynamic environment and it is planned out to meet our service standards for the year. We are constantly looking at what new work might be coming in, what might suddenly lead to people calling us and then planning our resources around that using a whole range of different areas to help meet that demand.

**Mr D'Ascenzo**—It is a very dynamic and difficult management area for us, and we use a lot of innovative and cutting edge business activities. We have talked about the auto call-back, the overflow facilities, the use of different shifts and different on-time non-ongoing staff arrangements. We do a lot of analysis in calls. In fact, the aim would be to try to put as much of, say, the five most frequently asked calls on our online services so that people do not have to ask us. We try a whole lot of things. It is a whole business in itself. Certainly if the committee were interested in coming to visit one of our call centres I would be very happy to make that available.

**Senator BUSHBY**—It is quite easy for me to do that. You have one in Hobart. Do you have any plans to upgrade them? As you say, it is dynamic and you are always looking for new ways to do things better. Are there any major plans in place at the moment for improving it further from here, whether IT-wise, locations or numbers?

**Mr D'Ascenzo**—I have briefly mentioned before the new technology we are putting in place for routing calls. We have relatively recently finished a significant tender process and we have Optus now working with us to put in a whole new infrastructure in a sense, which we call our managed network services operation. That will basically equip all of our staff to be in a position to answer telephone calls if they need to, but certainly the call centres are the areas that will do that. It also will significantly improve our routing ability, which I mentioned before. Going back to your earlier point about lunchtimes, we do have people onboard during lunchtimes, but when we have this much more sophisticated national routing we will be able to use people from, for example, Perth and Adelaide, to cover some of the eastern seaboard times and vice-versa. It does give us greater capacity to deal with those sorts of things. That is quite an important range of changes we are putting in place. Our whole infrastructure around our telephone call capacity is being modernised and improved.

**Senator BUSHBY**—You have no other major plans involving significant change for your call centres?

**Mr D'Ascenzo**—We have a new agency agreement that gives us flexibility in how we use our people. Our call centres are an important channel and we are continually trying to look at ways in which we can improve that operation. In fact, I think we have made some very significant productivity improvements over recent years. A long-term metric would be that if we could reduce the number of calls coming in—in other words, trying to head that off by providing easier information through online services or other facilities. That would be good. That is why we have upgraded our website, for instance, and that is why we put common questions there. That is why we try to anticipate or analyse calls and perhaps get the information out to the community in a way that stops them having to call us.

**Senator BUSHBY**—Presumably the idea floated by Ken Henry that people do not have to lodge tax returns or work on their own tax returns may well reduce the number of phone calls.

**Mr D'Ascenzo**—Basically people coming and asking information adds an extra step to whatever their rights and obligations are. Any way we can reduce that is what we are trying to achieve. Ultimately, if people need assistance we do see telephony as an important vehicle for us and we are trying to improve that service as best we can.

**Senator BUSHBY**—In many people's cases it is probably the only time they interact with the tax office and the impression they have of the tax office may well be resultant on the experience that they have with the call centre.

**Mr D'Ascenzo**—Very much so. In fact, we do a lot of survey work in terms of whether or not people value the sort of service we provide, and the trend is very positive in that regard.

**Ms Vivian**—There is one other change we are introducing that was not so much a technology change. We are shifting in terms of a new model of work. At the moment they are called call centres and we are moving much more to what we call an inbound environment. When someone calls up we have quite sophisticated scripting that helps give a consistent answer. We are moving more to a model such that, where similar sort of work can be responded to via that scripting, that will also be built into the call centre. That will be expanding some of the work that is done there. It is not just answering calls. It might be answering some emails and letters using the same sort of technology base. It is early days now, but that is something we are just starting to move a bit towards.

**Senator BUSHBY**—You are looking to improved efficiency. Are there any plans to change staffing levels?

**Ms Vivian**—We are always reviewing that. That is a constant thing. We are always looking to see what the appropriate staff level is. It is a whole range of things. We are always reviewing that.

**Mr D'Ascenzo**—We have looked for productivity improvements in all aspects of our work, including our call centre work. I think you would see some reduction over the last couple of years in terms of our call centre basic FTEs. Although as Ms Vivian said it goes up and down because we have ongoing staff to meet this.

**Senator BUSHBY**—For the last five years could you give me your average FTE over each of those financial years?

**Mr D'Ascenzo**—If it has not decreased or increased it should be relative to the number of calls we have as well, because that varies as well.

**Senator BUSHBY**—That is fine. If that is put relative to the number of calls it would be very useful. What do you do when you get complaints about the call centre?

**Ms Vivian**—We follow them up.

**Senator BUSHBY**—What is the process?

**Ms Vivian**—There are some different ways. If they come through our complaints handling area they are registered, followed up, actioned and we get back to the taxpayer. I can also assure you that because my name goes out on a number of bits of correspondence across Australia I get some direct emails to me, so we also follow them up through that process. Occasionally, if I see media articles about some problems in getting through, we also follow them up and try and go back to the taxpayer concerned to understand what has happened and then look at what we need to do to change our processes to make it better.

**Mr D'Ascenzo**—We also capture some of the very positive feedback we get from taxpayers that use our call centres. That is quite a regular occurrence. Every month we have a list of very positive feedback that some of our people have got.

**Senator BUSHBY**—How many complaints have you received in the last 12 months about the call centres?

**Ms Vivian**—I would need to take that on notice. I am not quite sure how we split them up that way.

**Senator BUSHBY**—Could you provide on notice details of all your complaints to the level of detail you are able to. You started talking about your 27 service requirements and how you met 22 of them. Would you mind also taking on notice what all of those service requirements are, what your targets are and how you went against them, including the 22?

**Mr D'Ascenzo**—I can give you those for last year now if you wish.

**Senator BUSHBY**—Yes. I am just interested in the time that we got.

**Mr D'Ascenzo**—Registration—85 per cent is our benchmark, and it was 97 per cent. Australian Business Register—85 per cent is the benchmark, and we had 95.3 per cent. Electronic lodgements, individuals—that is 14 days. We had a benchmark of 90 per cent and we had 96.1 per cent. Electronic lodgements, non-individuals—14-day standard. We had a 90 per cent benchmark and we got 93.8 per cent. Paper tax returns, individuals—we have a 42-day standard. We were expecting to do 80 per cent; we got 73.4 per cent. That is one of the ones where we were below. Electronic returns, activity statements—we have a 14-day turnaround. The benchmark is 90 per cent, and we got 98.2 per cent. Paper tax returns, non-individuals—we have a 56-day turnaround. That was one where we lowered the service standard. We hoped to get 80 per cent and we only got 73.4 per cent. I had the wrong one for the paper tax returns, individuals. We actually got 91.9 per cent. For paper tax returns, non-individuals we had 73.4 per cent.

Electronic debt activity statements—14-day standard. We have a benchmark of 90 per cent; we got 99.6 per cent. Paper debt activity statements—42-day standard. The benchmark is 90



per cent; we had 97.9 per cent. Refunds on overpaid tax—28-day standard. We expected a benchmark of 90 per cent; we got 91 per cent. Superannuation holding account, special account payment requests—21-day standard. We had a benchmark of 80 per cent and we got 81.5 per cent. Excise fuel scheme claims—14-day turnaround. There was a benchmark of 92 per cent; we got 94.5 per cent. Inquiries, automated email response—three-day turnaround. We had a benchmark of 90 per cent; we got 95.9 per cent. Inbound correspondence—28-day turnaround. There was a benchmark of 80 per cent; we had 89.3 per cent. Private written binding advice—28-day turnaround. We had an 80 per cent benchmark; we got 92 per cent. Telephone enquiries—general. We had that five-minute standard. We expected 80 per cent; we got 82.6 per cent. Tax practitioner, premium service telephone enquiries—two-minute standard. We had a benchmark of 90 per cent and we had 91.8 per cent.

Visit, general inquiry service—10 to 15 minutes was the standard. We expected that to be achieved in 90 per cent of cases; we had 91.4 per cent. Paper amendments—56-day standard. This was another one where we reduced our service standards. We expected 75 per cent and we only got 71.6 per cent. This was one that we did not meet. Electronic amendments—28-day standard. We had an 85 per cent benchmark; we got 92.2 per cent. Objections against private written binding advice—we have a 28-day standard. We were expecting that to be done in 85 per cent of cases; we had a 90.3 per cent outcome. Objections other than to private written binding advice—a 56-day standard. We expected 70 per cent; we got 89.3 per cent. Audit finalisation advice—a seven-day standard. We wanted to do that in 99 per cent of cases; we only did it in 96.8 per cent. Clerical and administrative errors—one-day standard. We had a benchmark of 70 per cent; we did that in 87.5 per cent. Then complaints, initial contact, three-day standard. We are hoping to do that in 88 per cent of cases, but we only did that in 81.7 per cent, which is another one that we missed. Resolution of complaints—we had a 21-day standard. We hoped to do that in 85 per cent of cases, and we only did it in 84.5 per cent, and that was another one that we failed.

**Senator BUSHBY**—Finally, on call centres, I was contacted by a fellow by the name of Graham who manages a self-managed superannuation fund. He was concerned about the fact that the ATO has stated that they are going to be less tolerant when trustees of SMSFs do not meet the letter of the law, and was trying to ring the ATO's super helpline to get some advice. He rang on three occasions on one particular day, or actually over a couple of days I think it was, once at about 4.30 pm in the afternoon and then the following day twice around 11.00 am. He was told—I am not sure by a recorded message or by a person—that they were experiencing peak demand, apologised, offered the internet and self-help options and then hung up. Does that sound like a response that taxpayers are likely to get?

**Ms Vivian**—When we get under exceptionally busy periods we do put a message up similar to that gives people some information and asks them to call back later rather than keep them in a queue for 20 minutes or something along those lines, if there was a sudden unexpected peak that we did not have enough operators to deal with at that point in time.

**Mr D'Ascenzo**—That might have been before we had the auto call-back facility in place, which would have given him the opportunity of saying, 'Do you want to wait?'

**Senator BUSHBY**—He does not provide any dates as to when these calls were made, but presumably with three calls he is just unlucky that he is ringing at times when he is getting that message?

**Ms Vivian**—We would hope that he was unlucky. As I said, we do review all the time. There are some really peak times. Sometimes there is just for some reason some unexpected peaks that have not built into the planning. Rather than keep people waiting on and waiting on, we normally put that message up and ask them to call back.

**Senator BUSHBY**—If a taxpayer such as this were making a number of phone calls and was able to substantiate that he was making a number of phone calls trying to urgently get some advice as to a decision he had to make in respect of his tax or super affairs, and made the wrong decision because he could not get the advice, is that something that would be taken into account by the ATO when they looked at his or her actions subsequently?

**Ms Vivian**—We would certainly look at those issues, but there is also a range of publication material—a number of things—out there for the taxpayer. We would certainly look at the situation and what led to it.

**Senator BUSHBY**—Thank you for that. I have lots of questions in this section of the estimates hearing and I will probably jump around a little bit. My next set of questions is for Treasury.

**CHAIR**—We might go to Senator Joyce.

**Senator JOYCE**—Touching also on what Senator Bushby said, in your call centres what is your professional backup like? Who are the accountants floating around making sure the advice that people give is the correct advice?

**Mr Butler**—I can make some opening comment and Ms Vivian we may want to add to them. I guess it is important to be clear that we probably do not give advice in a sense of a tax professional gives advice, because that is not really our role. We will certainly help assist people and help them find the right answers to problems, but we will not say to them, 'Option B is better than the thing you are thinking about.' We do not proactively suggest alternative options for a taxpayer.

**Senator JOYCE**—If someone says, 'Is this deductible?' It is a yes or a no?

**Mr Butler**—Yes, with that sort of thing absolutely.

**Senator JOYCE**—That is still a very pertinent question. Who sits over people's shoulders?

**Mr Butler**—Yes, I was going to go into that. When people go into our call centres they have specific training programs and skilling programs and they are then able to answer certain types of phone calls as they continue.

**Senator JOYCE**—How long does the training program go for?

**Ms Vivian**—If we are bringing someone straight in off the street, they can go for two to three weeks, but we also start them off with very simple calls. Then there is ongoing training during the year. It varies a little bit at the different levels.

**Senator JOYCE**—How do you know whether or not the call is simple?

**Ms Vivian**—We stream into some areas as well. We have a very sophisticated scripting system. In your question about quality assurance, that is what we particularly rely on and that is what the operators do use. If there was a call coming in on, for instance, capital gains tax that is quite a complex call you do not ask the operator to deal with it. What they do is then escalate it to a technical specialist. We have a number of escalation points where then people are particularly skilled up in those different areas.

**Senator JOYCE**—How do you know that you do not get someone off the street, you give them a two-week course, they spend most of that dreaming about other things in the world, they land on a microphone, someone rings up and the next thing you know they are wandering down a path? How would you know if they were saying, ‘You can buy that bulldozer, Mr Smith, and claim that as a tax deduction completely. If you are using it for work it is definitely a tax deduction. Thank you very much, Mr Smith.’ Next call.

**Mr D’Ascenzo**—Most, if not all, our calls are recorded, but we have a position that is called a coach. The coach actually sits and hears a range of calls, not every call.

**Senator JOYCE**—All at the same time?

**Mr D’Ascenzo**—No, in samples. A coach samples a range of phone calls along the way.

**Senator JOYCE**—So, he is listening to bits and pieces going around?

**Mr D’Ascenzo**—That is right. That is one. The other side of it is the training also says to people, ‘This is your script.’ So, really they are not authorised to go outside the scripting material or along those lines other than escalating it when the matter becomes more complex. So, there is a range of checks and balances.

**Mr Butler**—With that example with someone brand-new being through the training course, they have coaches sitting beside them until it is judged they have reached a point to answer calls by themselves. There are two people listening to the call and one person answering it.

**Senator JOYCE**—Two people listening to the call and one person answering it? So, you have three people listening to me? That is a better service than my accountancy practice.

**Mr Butler**—No, what I was suggesting is you have the taxpayer phoning in, you have the staff member answering the phone and there is the coach sitting beside them listening to the response making sure they get it right.

**Senator JOYCE**—For how long?

**Mr Butler**—It varies from person to person. It is a judgment call.

**Ms Vivian**—Certainly we do not want anyone answering calls who cannot do that. Certainly when they come into the call centre and they are new we can do a thing called a double jack, where someone can listen to the call and then the coach can take over the call if it looks to be wrong. We also do a lot of quality assurance. As the commissioner said, we are recording all the calls and we have a quality assurance section that is randomly taking a certain percentage of calls and they go through a whole range of different quality checks. Then they are going back to the operator if they feel they are not answering the calls correctly or those sorts of things and relooking where we need to skill them as well.

**Mr D'Ascenzo**—We call it a star system. People are actually provided with, and are very proud when they get to it, a silver star or even a gold star level on the quality of their work. It is all part of a very integrated process. I think the point is there is a bit of training, scripting, coaches, and checks and balances in that way, and there are escalation points. The tax agents have said, 'The scripting is good, but the scripting reflects a lot of what is on the internet and it doesn't go into the in-depth discussions.' But we are not positioning the call centre operator as the person who can answer every tax issue in the world so we have to escalate that further to other people and we will set up a professional-to-professional approach for tax agents.

**Senator JOYCE**—As to BAS statements, I have been approached by groups that are concerned, especially bookkeepers, saying there is a belief that there is potentially a multibillion-dollar hole by reason of people submitting BASs, especially bookkeepers, who are not doing them as they should and by reason of that collecting a heap of GST back that people are probably not entitled to, and revenue is losing out. How many BASs are submitted each quarter?

**Mr D'Ascenzo**—While the figures are being found I just want to put a bit of context here. There is always a degree of tension about how fast a tax office gets refunds out and how many checks and balances it must do. I have been before this committee or other committees of the parliament and heard the complaint, 'You've taken too long to get the refund out.' At the same time or subsequent time you are told, 'You do not have enough checks and balances.' It is a very fine, difficult exercise. In the current environment where people might be more inclined to take risks, it is certainly an area of concern for us. We do have a range of risk filters in our systems that spit out what we could call BAS refund cases that require higher consideration. It is usually those BASs with a higher refund figure amount to them. We also have new technology that looks at bits and pieces of things where scammers are trying to use the tax system or identity fraud to commit criminal frauds as well.

**Senator JOYCE**—I am not completely onboard with this proposition that was put to me. It was out to me as being an \$8 billion hole', and I said that that was impossible; that a hole that massive would definitely be picked up. There was a cogent argument that you get a range of people putting themselves up as bookkeepers, they just arrive to do a small business's books and send off the BAS for that return. If they have not had any qualifications or training most definitely they will end up botching it and they will always botch it on the side of the person who is paying their fee to do the BAS and so the taxation department loses out. I was thinking about the only way you could really check it, and this is my question. Do you do any sort of overall reconciliation and think, 'If these are the credits that are being claimed and these are the credits that are being paid, then obviously they are not going to match up'? Do you do a process of reconciliation to get an overall margin and say, 'This should be the difference', and this is 'within parameters of what we expect to be taking in overall if this is what people are claiming'?

**Mr D'Ascenzo**—I am not sure at the lower level, but certainly at a macro level we always have the forward estimate figures for GST, for instance. If you are seeing a dip, for instance, every month we look at those to see whether or not they are tracking as forecast. If people are claiming a lot more, that should show up in those monthly checks.

**Senator JOYCE**—I will drill right down, because I know you can query the database and that the GST claimed by one should be able to be reconciled, though will not be equivalent, to the GST paid by another. Throughout the economy there should be the capacity to reconcile that at a macro level in some way, shape or form. Is that calculation done by the Australian Taxation Office?

**Mr Quigley**—Firstly, we have an answer for the number of BASs during the year—18.1 million BASs. I am not sure if I am answering your question, but we do have a risk engine that, when the activity statements and the like come in, actually applies tests that are built in tests that will then identify those that we would think would be high-risk refunds. Where there is a high-risk refund, those particular ones are sent to an area that actually examines those refunds to see whether it looks like it should be paid. It is quite a sophisticated thing which has inbuilt income tests and all sorts of things that we continually update as well, based on what we find in the follow-up compliance activities. That is a way we can identify fraudulent claims.

**Senator JOYCE**—I have been out of accounts now for a few years. G9 or something was GST claimed, and G11 is your GST paid, I imagine. That is on the individual BAS return. If we looked across the nation on that there should be the capacity to reconcile one to the other, because people should not be claiming what someone else has not paid. If all of a sudden the claims are way in excess of what other people are paying, then you have got yourself a problem because they are claiming money that was never actually issued. They are plucking money out of thin air, so to speak. If they can do it online and get away with it a few times they will think, ‘Well, here’s a go. I won’t go outside the parameters of risk but I’ll always tip a bit in, tip a bit in, tip a bit in, and over the 20 years of doing my BASs I will buy myself a weekender at the coast.’

**Mr D’Ascenzo**—I am not sure whether we do it in specific sectors, but at a whole of economy level that would not be that accurate because of things that are input taxed or GST-free. But certainly there might be sectors where that could be a reasonable analysis. I am not sure of the extent to which we do it.

**Mr Konza**—The problem with the analysis that you are proposing is timing. You are always going to be out of sync because of the nature of these transactions. It is not really possible to match like for like. Some jurisdictions require people to submit all the invoices that pertain to their quarterly BAS statement. Others require them to write out every single one of them. We have a system that is meant to reduce compliance costs, so you cannot match like-for-like. We do match economic activity to expected GST receipts. We maintain the ability to be confident that we do not have a huge hole in the GST budget like that. As Mr Quigley said, on occasions at a micro level we will not issue a refund until we see the other side of the transaction when there are large amounts of money involved, and then more generally at a micro level we have a series of ratios that tell us whether or not these input credits match the type of activity being described in the BAS statement.

**Mr D’Ascenzo**—It is interesting that a reasonable level of our complaints come from people who complain that we have taken too long to make refunds.

**Senator JOYCE**—This was a revenue loss issue.

**Senator Sherry**—I would like to raise a related issue. You touched on the issue of perhaps the quality of some BAS agents. It may be inadvertent or it may be deliberate.

**Senator JOYCE**—Deliberate. You have probably been lobbied by the same people as I have.

**Senator Sherry**—In that context the National Tax Practitioners Board, which will replace the existing state boards, is shortly to commence work. It will register and regulate entities providing BAS activity statements. Within that there will be a legislative code of professional conduct, a wider and more flexible range of disciplinary sanctions that can be imposed by the board and also civil penalties and injunctions that will replace criminal penalties for certain misconduct by agents and unregistered entities. In addition, linked with the registration will be some minimum education and training requirements.

**Senator JOYCE**—I will not go into it, because we will do that with the legislation. In oversight of legislation that is currently within your purview they are saying there are still holes that will be driven through this and we are going to end up with people who are doing BAS statements who do not know what they are doing.

**Senator Sherry**—You can invite them to make a submission to the government on that aspect.

**Senator JOYCE**—I shall do that.

**Senator Sherry**—The regulations are not finalised yet.

**Senator JOYCE**—Thank you. I know you cannot talk about the Henry review, but the Henry review has been talking about the Henry review. One of the things that the Henry review has mentioned about the Henry review is the removal of individual tax returns and giving people the option to tick a box. That is all marvellous stuff. I had the pleasure of working in this industry for 12 or 13 years. What will happen, of course, is that people will take the option that, if they think you owe them money, they will definitely do their tax return. But if they get a sheet of paper saying that the outcome was better than they expected—and they always have a pretty good gut feeling of where they are—they will say: ‘Here you go. We’ll tick the box and send it off.’ We do not like doing those jobs. To be honest, they fill the office up and there is not a great return. You have to chase them for money. A lot of times it is a public service more than an income earning thing. You lose the expertise of someone sitting across the table from these people and saying: ‘You’re telling me, Mr Smith, that you’ve survived this year on \$25,000 with three kids and I noticed you drove here in a new car. Sorry, I don’t believe you.’ In that form of querying we manage to find the taxation department a lot more money, which we then have to pursue the client for a bill for, because of course they do not get a refund, so we do not get paid. How are you going to deal with that? I know of people who would come in with 13 years of tax returns owing a substantial amount of money.

**Senator Sherry**—Before the officers respond, you talked about the Henry tax review. I think that it is more the media speculating about what the Henry tax review may report on.

**Senator JOYCE**—Is that speculation right or wrong, about the tick-a-box tax return?

**Senator Sherry**—The Henry tax review will be given to the government at the end of this year, and then it will be released. We will then know what the Henry tax review has

recommended. It is premature to get involved in a debate about what may or may not be recommended from the Henry tax review, even before the government has determined what will be implemented.

**Senator JOYCE**—Senator Bushby has handed me something that states, ‘Treasury Secretary Ken Henry favoured a proposal that would see the tax office calculate whether or not individuals were eligible for a tax refund.’ Does Ken Henry work for the treasury department?

**Senator Sherry**—Yes, obviously.

**Senator JOYCE**—Is Ken Henry the man behind the Henry tax review?

**Senator Sherry**—Is it a direct quote from Ken Henry? I am not sure it is. I think there was a media report.

**Senator JOYCE**—It states:

Treasury Secretary Ken Henry flagged the proposal that would see the tax office calculate whether or not individuals are eligible for a tax refund.

**Senator Sherry**—Is there a quote or an attributed comment at a particular place to a particular group of people?

**Senator JOYCE**—Are you saying the ABC report is wrong?

**Senator Sherry**—I simply do not know. I do not know what will be in the Henry tax review until the government receives the report at the end of this year.

**Senator JOYCE**—Another report states:

A confidential Treasury briefing note also reveals that shareholders will continue to enjoy lucrative tax breaks.

The Henry review has dropped plans to scrap Australia’s 12-year-old “dividend imputation” scheme.

There is obviously information getting out from the Henry tax review. You can completely dispel now whether this is a proposal or not.

**Mr Parker**—To give you an overview, it is fair to say that the Henry review process, as a policy exercise, has been one of the most open policy exercises that has ever been conducted in this country. As you know, it has been running for 18 months and is due to report by the end of the year. It has taken over 1,000 submissions. It has had town hall meetings. It has had very close consultation and a number of speeches have been put out. I understand the point you have raised came up in a question and answer part of a recent speech that Dr Henry gave. One of the elements of the review being looked at, apart from the way things are taxed and so forth, is the client experience of the tax system. What Dr Henry was talking about, which the press has picked up and run with, is that you can imagine a time in the future, after further technological advance, where you have the existing arrangements of prefilling of income tax forms which is presently done under the tax system, being taken eventually to a stage where, for taxpayers with simple affairs, all relevant income will be captured. That is the context of this.

**Senator JOYCE**—I was just wondering whether Dr Henry had made it to cabinet, because he seemed to be announcing decisions of the government?

**Senator Sherry**—That is not correct. The process has been well outlined. It is a massive consultation. People are entitled to put submissions and questions to Dr Henry and other members of the panel, as they have done, and obviously they respond. That is just part of an open process of consultation. We will see what Dr Henry and the panel recommend when the report is sent to the government and ultimately the government releases the report to the government.

**Senator JOYCE**—I think most accountants will jump for joy the moment you take individual tax returns off their plate, but I can assure you the government will lose money on it, because that oversight will be gone and most people will not come in. The ritual of you collecting your money and us sending you down the dough will finish and we will concentrate on the business client who we make a lot more money out of. It will be interesting to see the cost implications of a range of these cash jobs not striking a match as far as paying their tax revenue goes. As a person coming out of the accountancy field, I am always amazed with the process of revenue. I can walk through town and go to a range of restaurants and shops where the only way I can pay is with cash. I know why I am only paying with cash. I am only paying with cash because that means there is no electronic trail of the money that I am delivering to that restaurant or to that shop. With the EFTPOS system there has always been an immense capacity for the oversight of audit on what is the actual revenue structure of a business. Why is it that I can do that and why are you not asking more questions? Why are you not going for a stroll down the street and saying, ‘This is incredible! I’ve gone down a certain street in Sydney and every one of these shops will only take cash’?

**Mr Quigley**—There is a significant emphasis in our compliance plan for 2009-10 on the cash economy. I recently released a number of benchmarks where we have worked with industries and the accounting and legal professions in developing benchmarks for a whole range of industries, including the sorts of industries you are talking about: restaurants and the like. There are two elements to that. One is to assist taxpayers who want to do the right thing in looking and seeing whether their business is functioning within those benchmarks. On the other side of it is that we use those benchmarks in examining the returns of people that come in from these cash economies and say that these are outside of the benchmarks, and then we take whatever compliance action needs to be taken.

**Senator JOYCE**—As far as the GST removing the cash economy, it has actually increased the cash economy in a lot of instances. Miracle of miracles, a whole range of shops in the same street all seem to make a \$40,000 profit. They have all made this very close return no matter where they are. Does the penny drop that something is going on?

**Mr Quigley**—Our analysis is much more sophisticated than what you are suggesting. That is the old style of what you see on the street. We do a whole lot of analysis now that makes it much more targeted to the areas where there is the bigger risk for revenue to be forgone. Gone are the days when we used to just go along a street, knock on a door and have a cursory look at books to see what return a cash business might be showing in a tax return as opposed to what appears to be on their till or in their cash box. There are quite sophisticated processes that we undertake now.

**Senator JOYCE**—What sophisticated process do you use that stops a person, especially in the restaurant game, from just putting the money in the pocket?



**Senator Sherry**—I am sure the witness can add as he wishes, but I went to the ATO to look at some of their compliance activity. The level of sophistication in detecting avoidance is very impressive. That is what we are talking about. I am more than happy to organise a visit for you and others from the committee who may wish to visit the ATO and have a look at this. It is a very worthwhile exercise.

**Senator JOYCE**—I will be more specific. Do you have an increased oversight on businesses that are not issued with electronic EFTPOS or the capacity for that? Do you still conduct spot audits to find out which businesses have electronic EFTPOS and things like that which obviously give you an audit trail, as well as to find other businesses that seem to be making a conscious decision to remove themselves from any electronic fingerprint on exactly how much money they are earning?

**Mr Quigley**—We do research to identify those businesses that operate in that way. There is quite a strong emphasis in our compliance program for 2009-10, as there was in 2008-09, on those types of businesses. I would never put my hand on my heart and say we would ever be able to totally clean up the cash economy. In my opinion, that is just an impossibility. What we are trying to do, in a very targeted way, is go to those businesses that are at the highest risk of defrauding the revenue.

**Senator JOYCE**—One day I will go down to the ATO. I would like to do that. I want to take you out for a day. We will go and have a cup of coffee or a meal at about 15 shops. We will just walk along one street in a certain metropolitan capital, which could be any one, and then I will ask you the question at the end of the day: how many electronic versions of cash did you see in that shop? How did we pay each one of those bills? How do you reckon they are going regarding delivering to you the money they possibly owe you?

**Mr Quigley**—That would be a pleasure.

**Senator Sherry**—For the chair, who was out of the room momentarily, an examination or inspection of the ATO surveillance unit is pretty impressive. I was taken aback at what they can find out.

**CHAIR**—Thank you for that.

**Senator Sherry**—The offer is there for the committee members.

**Senator JOYCE**—The next issue that I want to go to is whether you received a spike in GST revenue that correlated with the stimulus package?

**Mr Konza**—We would have to take that on notice, if you require details. I recall that it had always been forecast by the Treasury Department that there would be a spike in GST revenue flowing from it.

**Senator JOYCE**—I know it was forecast. I want to know whether it happened.

**Mr Konza**—I will have to take that on notice.

**Senator JOYCE**—Can you take on notice whether it happened and how much it was above the base, excluding the stimulus package? Can you tell us how much it was above trend?

**Mr Quigley**—I can take that on notice.

**Mr D'Ascenzo**—You need to take into account in that calculation that, with a downturn, often the shift in spending habits tends to be in terms of rent or food type activities rather than luxury type activities, and a lot of those foods and rents are either input taxed or GST free, so you are not going to necessarily get an exact correlation. Other than that we will get the figures.

**Senator JOYCE**—I am not asking for an exact correlation. Are you inferring there was not a correlation?

**Mr D'Ascenzo**—I am just saying that I would expect that some of the increased consumption might be in areas that were not necessarily subject to GST.

**Mr Butler**—You mentioned the stimulus before. Did you mean the tax bonus in particular?

**Senator JOYCE**—What was the anticipated spike in GST? You gave an anticipated spike in GST in your forward projections due to the stimulus package, did you not?

**Mr Butler**—As a whole, and not just the tax bonus component.

**Senator JOYCE**—I would like to know how we tracked to trend on that and how much there was a spike in GST revenue overall above trend which would have to be attributable to the stimulus package.

**Mr Butler**—Thank you.

**Senator JOYCE**—I have seen in the budget papers that you have been involved in the prospective revenue from emission trading permits.

**Mr Parker**—That is not the tax office. The Treasury has done those estimates.

**Senator JOYCE**—Is there anybody involved in Revenue Group who has had any oversight or any participation in this process?

**Mr Parker**—We have been involved in some of the revenue estimation dimensions of that and also in the estimation and crafting of the household compensation package.

**Senator JOYCE**—I am interested in your revenue estimations. What were the parameters of your estimation? What was the process? What were the guiding principles that you were looking at? I can see that it has \$17.4 billion in the first couple of years and then \$12.99 billion. I want to know how you came to that estimation of that process. We do not even know how many permits are going to be issued.

**Mr White**—The numbers come from the climate change modelling estimation—the people who were here this morning. We do not do the estimates. They come out of the modelling that Ms Quinn is responsible for.

**Senator JOYCE**—What did you do when you got that?

**Mr White**—We just took the numbers from them as part of their process and put them into our estimates.

**Senator JOYCE**—Thank you.

**Senator EGGLESTON**—I would like to ask you about stimulus payments and how that was handled within the department. Firstly, how many additional staff—permanent, part time, casual and contractors—did the ATO receive funding for to administer the tax bonus?

**Senator Sherry**—We did discuss this earlier.

**Senator EGGLESTON**—I think this ground has been covered while I was away.

**CHAIR**—I will go to Senator Bushby.

**Senator BUSHBY**—I would like to follow up a question on notice from the last estimates in relation to bracket creep. This was question on notice BET-33. Treasury indicated that basically it was too hard and unreliable to estimate how much was added to forward revenue as a result of bracket creep and fiscal drag. Given that, can you advise whether the forward revenue estimates actually include any upwards adjustment for these factors? If they do, how was that amount calculated?

**Mr Parker**—The way that the revenue estimates are done is that we take the detailed forecasts from Macroeconomic Group of what is going to happen to the relevant bits of the economy and the income numbers associated with that. They are fed into structural models by our revenue analysis people, which have the structure of the tax system embedded in them. For example, the corporate tax model is basically structured along a balance sheet and income statement arrangement for the corporate sector that flows in and spits out the tax numbers. It is similar at that structural level for income tax and withholding personal tax. The key parameters that go into that are the tax rates and the income that is earned, and the number drops out of that. We do not estimate what the tax revenue would have been but for an increase in nominal income leading to fiscal drag, then work out what the fiscal drag would have been and then add that on.

**Senator BUSHBY**—Essentially, it is too hard to unpick.

**Mr Parker**—It is hard to unpick. That was the context of the answer.

**Senator BUSHBY**—Presumably, if the macro information that you are provided includes a projection of an increase in income that will have an impact on revenues and also a fixed set of tax rates. I asked the same bracket of questions at the time and it was indicated that there was no plan for changes, in terms of whether there would be an upward adjustment in those revenues based on bracket creep or fiscal drag.

**Mr Parker**—The revenue numbers would implicitly already have within them an amount which, if you could unpick it, you would label as bracket creep.

**Senator BUSHBY**—Does Treasury or the ATO have access to any information regarding the practice of employers using a competitive tendering process to select their default fund for their superannuation guarantee contributions?

**Mr Parker**—I am not aware that we in Revenue Group are across that issue.

**Senator BUSHBY**—Is that the Markets Group?

**Senator Sherry**—It is an operational systems matter, so it would be the Markets Group.

**Senator BUSHBY**—I have asked that to a number of witnesses. I just wanted to make sure that anybody who might have access to that information can give me that. What has been the impact of the May 2009 budget changes to the superannuation co-contributions and contribution limits generally? Can you give me any information on that? Are Australians on the whole reducing or increasing voluntary contributions to superannuation?

**Mr Parker**—I will give you an oversight perspective on superannuation. That is also part of a broader picture about the revenue story that was published from budget to final budget outcome in the last quarter and in the present quarter, where things are beginning to emerge. It appears that the rate of contributions to superannuation funds has fallen off. There are a number of influences bearing on that. One of them would be the changes announced in the budget in terms of their concessional caps, but there are other influences happening: in particular, perceived attractiveness of the returns in the superannuation sector after the global financial crisis and the sticker shock that people experienced when they got their statements from superannuation funds. There are many things that are bearing on this at the moment.

**Senator BUSHBY**—Does Treasury have the information and/or the capacity to assess the relativities in those causations?

**Mr Parker**—We will be able to unpick that to a reasonable degree eventually, but we cannot unpick it right now.

**Senator BUSHBY**—I would not imagine that you would be able to yet, but at some point you may be able to look at that. I have some more questions on co-contributions, so rather than jumping all over the place I will try to find those. They are probably not that different from what I have just asked. Is Treasury investigating a retail client compensation scheme to address the gaps in consumer compensation mechanisms in respect of superannuation?

**Mr Parker**—Again, that would be Markets Group.

**Senator BUSHBY**—Has any modelling been done by Treasury on the effects of mandating superannuation default funds in modern awards and the policy's impact on competition and access?

**Mr Parker**—Not that I am aware of.

**Senator Sherry**—It goes to that issue of default funds, so that would be Markets Group.

**Senator BUSHBY**—The self-managed superannuation fund review was instituted on 14 February 2008, and as far as I am aware it has neither reported nor wound up. Where is that currently at? Is there likely to be an outcome?

**Senator Sherry**—The best way to describe it is that it has been absorbed within the Cooper review. If you look at the announcement of the terms of reference of the Cooper review and, indeed, the Cooper review's subsequent three areas that it has announced, one of those includes the self-managed super fund sector.

**Senator BUSHBY**—How much work was done on that review before the Cooper review was announced?

**Senator Sherry**—In what sense?

**Senator BUSHBY**—How much of taxpayers' resources were expended on that review before it was actually subsumed into a subsequent review?

**Senator Sherry**—Someone at the table may be able to help us, but I think we would have to take it on notice.

**Senator BUSHBY**—Thank you. Have the submitters to that review been informed that it has been subsumed into the Cooper review?

**Senator Sherry**—Again, I would have to take it on notice. Up until June I would have known, but for obvious reasons I do not. I will take it on notice unless any of the officers can provide us with up-to-date information. We can come back to you on it.

**Senator BUSHBY**—The clearing house discussion paper was released on 14 November 2008, with funding of \$16 million for a project that had been announced earlier in last year's budget. What is the outcome of that discussion paper?

**Mr Parker**—There has been a process of ongoing consultation, policy development and advice to government. I understand that the government is going to announce its position on that in the near term.

**Senator BUSHBY**—Are you able to inform me why it has taken so long to bring it to a conclusion, given that the government went into the last election with this as a clear promise?

**Senator Sherry**—In terms of an election promise, an election promise is delivered in this term. It is October and we are halfway through our term. I see the delivery, whenever the announcement is made by the government—presumably by my colleague Minister Bowen—as entirely consistent with our election commitment.

**Senator BUSHBY**—I am not saying it is not consistent. I am just interested in why it has taken two years in this particular case. Obviously some election commitments have been delivered more quickly and some may well be delivered in the next 12 months.

**Senator Sherry**—I can only reflect in terms of my own experience of the issue up until June. It is a very complex set of issues and we have discussed those on previous occasions. It is very important to get the model right.

**Senator BUSHBY**—It was indicated in the discussion paper that it would start in July of this year. Why did it not begin then?

**Senator Sherry**—I do not recall whether that date was committed to in the discussion paper.

**Senator BUSHBY**—It may well have been in your election promise. I am not sure. I have a note here that the start date was going to be July of this year.

**Senator Sherry**—I would have to refresh my memory, but I do not believe there was a specific date commitment. There was certainly a commitment within the term of this government. I am not sure about the discussion paper. As has been indicated by the officer, an announcement will be made in the next short while by the minister.

**Senator BUSHBY**—Have submitters to that paper process been informed of the review's progress?

**Senator Sherry**—I would have to take that on notice, unless the officers involved have further information.

**Mr Parker**—I will take that on notice.

**Senator BUSHBY**—I imagine you would need to take this on notice as well. Can you advise what the cost has been for the discussion paper and the follow-up consultation and review process?

**Senator Sherry**—We will take that on notice.

**Senator BUSHBY**—The tax relief merging super funds review was established on 16 January this year. Where is that review up to?

**Senator Sherry**—I made the announcement in January related to providing tax relief for funds that merged. There were to be discussions about any detailed issues. It was not a matter of reviewing to give tax relief. The decision was made to provide tax relief.

**Senator BUSHBY**—Are the mechanisms in place for that to occur?

**Senator Sherry**—One of the officers might be able to assist us as to the detailed consultation.

**Mr McCullough**—I do not recall the exact detail. You might be referring to relief from capital gains tax for merging super funds in some limited circumstances.

**Senator BUSHBY**—That is probably it.

**Mr McCullough**—The government has definitely made an announcement on that. I do not have the progress of that particular measure with me. From memory, I believe it has been consulted on and is heading towards introduction in due course. I can take that on notice.

**Senator BUSHBY**—I am happy for that to be taken on notice. In doing so, can you advise where the review is currently at or where the development of the measure is currently at?

**Mr McCullough**—It was not a review as such.

**Senator Sherry**—There has been an overuse of the description ‘review’. This is not what we would describe as a review. It was a decision.

**Senator BUSHBY**—What was the cost of implementing that decision to date?

**Senator Sherry**—We will take that on notice.

**Senator BUSHBY**—Apparently the Cooper review is the most significant of these, absorbing others and so on. A question on notice from the last estimates—and I do not have the reference to it here—indicated that the cost of that was anticipated to be \$1.75 million. Can you confirm that?

**Senator Sherry**—As I recall, that is approximately right.

**Senator BUSHBY**—Can you tell me whether consultants are being used as part of that, and whether that \$1.75 million includes costs for consultants?

**Mr Parker**—The Cooper review processes are more within the Market Group area, because it is about the structure of the system as opposed to the taxation arrangements. It may be best to ask them.

**Senator BUSHBY**—You would anticipate that they would be able to better answer these questions?

**Mr Parker**—Indeed.

**Senator BUSHBY**—I touched on the 2009-10 superannuation reforms. Has any modelling been undertaken on the co-contribution scheme?

**Mr Parker**—Modelling was undertaken as part of the analysis that went into informing the budget measure and the costing that was associated with the measure that was announced.

**Senator BUSHBY**—Have any adverse consequences been detected from cutting the concessional cap limits, particularly in terms of public servants who receive higher levels of super than other professions or other people in similar categories?

**Mr Thomas**—In relation to the reduction in contribution caps that was announced in the budget, there have been a number of representations made to the government in relation to how that has impacted in particular circumstances. Examples that have been drawn to the government's attention relate to situations where, for example, an individual is a director of a number of public companies and consequently they receive superannuation guarantee contributions from a number of sources. The total of that remuneration or the SG relating to it brings them above the cap. That is an example of where it has impacted on particular circumstances.

Another example that has been drawn to our attention is where somebody in that situation might have already contributed the maximum that is permitted under the non-concessional cap. The way the caps work is that if you exceed the concessional cap—and SG contributions count towards the concessional cap—that excess counts towards the non-concessional cap. The non-concessional cap was not reduced in the budget. It remained at \$450,000 over three years or \$150,000 per annum. There are exceptions to that where the individual is already 65 years or over. To take an example of somebody who is under 65 years of age, there may have been circumstances where, for example, somebody had already contributed \$450,000 in non-concessional contributions, so they then had an excess of concessional contributions. That leftover goes into non-concessional and then puts them over the non-concessional limit. Those are the sorts of situations, but in that case of course somebody has already contributed \$500,000 to superannuation.

**Senator BUSHBY**—You started your comments by saying that there had been a number of representations made to Treasury. You used a couple of examples where you indicated there probably were some adverse consequences for some people or certainly consequences that were not necessarily anticipated.

**Mr Thomas**—The way the contribution caps work or are intended to work is that where the caps are exceeded then the consequences of the flow from that are meant to flow. More people would have been caught as a result of the caps being halved. If they were in that first situation that would have been the case in the absence of the caps being halved.

**Senator BUSHBY**—I am not quite sure that is the case. In terms of the representations that were made to you about consequences, the fact that you have quoted some examples suggests—and please correct me if I am wrong—that Treasury, to some extent, acknowledges that some, if not all, of those representations are raising issues that may well flow into the intended outcomes; nonetheless, they are not inconsistent with your analysis?

**Mr Thomas**—Yes, certainly. That is the consequence of what has happened.

**Senator BUSHBY**—This question is probably more to the minister. Has the government looked at any of those issues raised through those representations with a view to adjusting any of the policy settings to avert some of those consequences for the people involved?

**Senator Sherry**—Again, that would go to advice to the minister. I am not aware.

**Senator BUSHBY**—I was asking the government's position.

**Senator Sherry**—I am not aware. I will take it on notice for the minister.

**Senator BUSHBY**—I asked at the last estimates about how well the super funds have complied with the requirement under the temporary resident superannuation tax grab legislation and was told that an extension had been granted until 15 June, which was about two weeks later than when we were having the estimates. Can you advise now how the funds have gone in meeting their obligations to send all temporary residents' funds into the ATO?

**Mr Olesen**—We replied to question on notice BET-30 from the last session. We provided an estimate at that stage.

**Senator BUSHBY**—I have that. You indicated that it was not a final figure.

**Mr Olesen**—That is correct. The final figure came in slightly above the figure that was provided. In that answer we said it was \$166.6 million, but the final figure is around \$172 million. We did grant a number of extensions to some of the funds that we notified that we thought had temporary resident accounts. I think 26 funds were given an extension beyond 30 June. When you take into account some of the payments that have been received since 30 June—and that in total relates to the first run that we have done around temporary residents—the total collection figure is looking at around the \$200 million mark.

**Senator BUSHBY**—When will you know what the total collection figure will be?

**Mr Olesen**—There is an ongoing process as we work through some of the details of the funds that we notified and continue to process some of the receipts that we have got from them. It may be several months before we have a final picture on collections from that first run. We are in the process of going through the second run. They happen every six months.

**Senator BUSHBY**—Hopefully that should be a bit smoother because the funds will have processes in place to deal with it.

**Mr Olesen**—It will be a much more straightforward process from our point of view. The first one, of course, was a catch-up. We went back as far as 1992 with data from Immigration to identify potential temporary residents. This next one just relates to the last six months from the next set of data that we have from the department of immigration.

**Senator BUSHBY**—You anticipate about \$200 million. How does that compare with the budgeted figure?

**Mr Olesen**—My colleagues in Treasury may be able to answer that better. I think the original estimate was something in the order of \$250 million.

**Senator BUSHBY**—It could be \$50 million short?

**Mr Quigley**—I think it was \$251 million.

**Senator BUSHBY**—Or roughly \$50 million short of anticipated figures. Have all funds that have asked for an extension been granted an extension?

**Mr Olesen**—As I said before, we granted 26 extensions where we thought they met circumstances that warranted that.



**Senator BUSHBY**—Were there any funds that sought extension but were not granted an extension?

**Mr Olesen**—Yes. There would have been some funds that sought extensions that we did not grant.

**Senator BUSHBY**—How many were there?

**Mr Olesen**—I do not have that information.

**Senator BUSHBY**—Can you take that on notice?

**Mr Olesen**—Certainly.

**Senator BUSHBY**—What consequences flowed from those funds seeking an extension but not being granted? Did they manage to comply?

**Mr Olesen**—Again, I would have to take that on notice.

**Senator BUSHBY**—In doing so, can you outline what actions you have taken against funds that have not complied with their requirements?

**Mr Olesen**—Certainly.

**Senator BUSHBY**—Have you had any eligible temporary residents seeking to reclaim their funds?

**Mr Olesen**—Temporary residents that have left Australia have an entitlement to claim their superannuation.

**Senator BUSHBY**—It is ultimately their money.

**Mr Olesen**—It is their money and they are able to claim it out of the superannuation system. There is a withholding that applies and they take it with them. If six months after departure they have not claimed it, that money becomes payable to unclaimed funds as part of the temporary residence measure. They are then able to claim it from the tax office in future if they want to reclaim it. I am not aware of any temporary residents who, since this first run, have sought to reclaim from us their superannuation, which they are entitled to. I could attempt to find that detail.

**Mr D'Ascenzo**—About \$1.5 million in claims were paid during the last fiscal year.

**Senator BUSHBY**—Out of the ATO?

**Mr D'Ascenzo**—That is right.

**Senator BUSHBY**—From the money that has been forwarded to you under this legislation you have had \$1.5 million that has been claimed?

**Mr D'Ascenzo**—That is right.

**Senator Sherry**—Is that from temporary entrants?

**Mr D'Ascenzo**—It could be temporary entrants or it could be in terms of unclaimed funds. It is not quite clear on my figures. We can clarify that. I am just saying that we have had some payments out in the order of \$1.5 million, but we will clarify whether that is temporary residents or whether that is just unclaimed funds.

**Senator BUSHBY**—Are you able to indicate the range, in terms of quantum, of the individual accounts? I imagine some of them would be very tiny, but I would be interested to see how large the accounts go to as well.

**Mr Olesen**—We have an idea of the number of memberships in respect of which we received payments. The \$170-odd million that I mentioned before relates to around 240,000 memberships.

**Senator BUSHBY**—The vast majority would be small.

**Mr Olesen**—Yes. When you do the maths on a membership basis you will understand that there are individuals involved and those individuals may have multiple memberships in multiple super funds, and inside each super fund they may have multiple accounts. There are about 240,000 members in respect of which we collected the \$170 million. If you do the maths I think it is about \$700 per membership.

**Senator BUSHBY**—That is the average. I would like to know the range in terms of size.

**Mr Olesen**—I do not have that information.

**Senator BUSHBY**—You can take it on notice.

**Mr Olesen**—I will take it on notice.

**Senator BUSHBY**—Thank you.

**Senator JOYCE**—There is a perception that might be genuinely there to inspire some debate in the Henry tax review. How much money is rebated via zone B tax rebate?

**Mr Quigley**—We will have to take that on notice.

**Senator JOYCE**—You will be able to work this out by querying your database for postcodes from Townsville, Cairns and Mackay. What is zone B? Is it still \$57?

**Mr Quigley**—It is \$57 plus a proportion if they have dependants.

**Senator JOYCE**—Yes, Medicare. It is a slab and a half of beer. It made a lot of sense in 1947, but it probably does not make much sense this year. Is Townsville still in zone B?

**Mr Quigley**—Yes.

**Senator JOYCE**—There are about 170,000 people in Townsville now.

**Mr Quigley**—Last time I was a resident of Townsville it was about 120,000.

**Senator JOYCE**—Is Cairns in zone B? Both of these cities have international airports now. It has about 130,000 people. Mackay is in zone B. It almost has an international airport. That has 100,000 people, all getting \$57. Yet places such as Dirranbandi, with 900 people, do not get it. Mungindi and all these places that are truly remote do not get it. Do they ever reassess where the lines are? There is definitely a need to compensate people who do not live near the public expenditure dollar, where they do not have hospitals, ports and childcare facilities. Is there ever going to be a reassessment of the amount that is in these rebates and the people who actually get them, because the people who are remote now are not the same people who were remote in 1947?

**Mr Parker**—That is one of the issues the tax review has looked at. It is a structural dimension of the tax system. As you have noted, there are some cobweb elements in it.

**Senator Sherry**—You raise a valid point about the boundaries. I do not know when this issue was last looked at, if in fact it has ever been looked at.

**Senator JOYCE**—It was Fadden and Chifley who were discussing it. In 1947 the rebate was £20—that is, \$40. In 2009 it has gone up to \$57. It has not kept up with inflation. It has gone up by \$17. The areas that it took into account, which may have been remote at the time, are no longer remote. In fact, they are highly populated, with half a million people in those three towns alone. Other areas have remained truly remote. No-one is going to move to Cunnamulla for a slab and a half of beer.

**Senator Sherry**—I understand the argument. I do not know when the boundaries were last looked at, but there does seem to have been significant population movement, shift or growth in some of those areas.

**Senator JOYCE**—It was to inspire people to move to the area. You do not need to be inspired to move to Cairns. It is not a bad place to go nowadays. How much do you anticipate to collect in revenue from the Gorgon project?

**Mr D'Ascenzo**—Again, I do not have the figures on what is taxable or ultimately in the profit that is attributable to Australia.

**Senator JOYCE**—Are you privy to the royalty revenue as well?

**Mr D'Ascenzo**—At this stage I do not have details on the specific Gorgon proposal.

**Mr Parker**—There may also be some tax secrecy dimensions in disclosing the affairs of an individual taxpayer that limits the tax office's ability to answer that question.

**Senator JOYCE**—Gorgon will be under a federal royalty. The royalties will not go to the state of Western Australia, will they? They will actually go to the federal government.

**Mr Parker**—Under the PRRT that is right.

**Senator JOYCE**—The royalty premise is not ad valorem, is it? Is it going to be profit based?

**Mr White**—The PRRT is levied on accumulated cash profits of an entity. When you first start building the infrastructure and you are basically committing a lot of funds and having no revenue, until you get enough revenue to totally offset that you do not pay any tax. It is when you first make a profit over the whole life of the project that you will start to pay tax. It is the petroleum resource rent tax.

**Senator JOYCE**—The petroleum resource rent tax is basically a profit based mechanism.

**Mr White**—Yes.

**Senator JOYCE**—When would we anticipate a profit from Gorgon?

**Mr White**—I do not know if anybody knows that. We would have to take it on notice. It is certainly not within the forward estimates of the budget.

**Senator JOYCE**—For the purpose of *Hansard*, it goes through to 2012-13. The Gorgon project is a brilliant project. What is the actual return to the federal government from it?

**Mr White**—We will levy petroleum resource rent tax on it.

**Senator JOYCE**—Once they make a profit?

**Mr White**—Once they make a profit, like all other projects that are under that tax revenue.

**Mr Parker**—There is also the standard company income tax regime that applies to it.

**Senator JOYCE**—They have to bring the project online. What will the depreciation rate on their capital be?

**Mr Parker**—It varies in the company income tax system and in the PRRT arrangements. For PRRT purposes there are uplift factors that change the nature of the tax into a rent tax. We will get someone from business tax to answer the question on depreciation rates.

**Senator JOYCE**—This is an incredible experience for you, Mr Flavel. You have been coming up for years and you actually get to do something today.

**Mr Flavel**—The Gorgon project will have a range of different oil and gas assets. There are, in fact, statutory caps on the life of those assets. In terms of depreciation they would get to write them off over the rate that is outlined in the tax law.

**Senator JOYCE**—Is there an accelerated depreciation rate accessible to the implementation of the cap that will be attributable to this Gorgon project?

**Mr Flavel**—I am not sure that I can answer that, because I do not know the specifics of which assets.

**Senator JOYCE**—Have we still got R&D accelerated depreciation?

**Mr Flavel**—No. There is an accelerated write-off for R&D. In this case we are talking about things like the physical assets: the pipelines and so forth. Oil and gas assets of that nature do have an accelerated write-off period.

**Senator JOYCE**—What is the accelerated write-off period?

**Mr Flavel**—I would have to take that on notice. It is between 20 and 30 years.

**Senator JOYCE**—The accelerated write-off would be because the pipe is actually an imported product, so we are not getting any GST revenue or anything from there, because apparently due to the dimensions of the pipe they choose not to make it in Australia. There is some reason they have to buy it from overseas. Where does the actual income stream for the federal government, apart from salaries and wages, come on stream?

**Mr Flavel**—Mr Parker outlined that the two main returns via the tax system will be company tax—

**Senator JOYCE**—That will not happen for a fair while.

**Mr Flavel**—Again, we are not privy to the accounts of the project partners. There is also the petroleum resource rent tax.

**Mr White**—To the extent that it creates additional economic activity, you are right: there will be extra people employed. That creates wages, which buy things in Australia and create general economic activity, so it will benefit the economy and tax revenue through that method.

**Senator JOYCE**—Your wage activity is your activity. I want to go to transparency in transfer-pricing issues. With the advent of state owned enterprises and their purchasing of capital assets in the market in Australia—and I am thinking more of the Oz Minerals purchase later on—is there a cell currently looking for diligence in this market and making sure that transfer-pricing issues are not used as a mechanism to defraud the Australian Treasury of tax?

**Mr Quigley**—I can comment and Mr Konza might wish to follow on. Transfer pricing is a key feature of our compliance plan going forward. There is quite a lot of activity that we are undertaking with a number of countries around transfer pricing.

**Mr Konza**—You referred specifically to state owned enterprises. I take it you mean foreign state owned enterprises.

**Senator JOYCE**—Yes. I will be more specific. I will tell you where I am leading you to, rather than lead you down the garden path. With the advent of especially rare earths and the closure of the market there, with 95 per cent basically controlled by the Communist Peoples Republic of China, with their capacity to purchase the product in Australia—their capacity almost excludes the purchase of the product in China—and then being exactly the same entity on both sides of the transaction with no capacity of discernment to obtain what is a proper and effective price on an open market because an open market is just about extinguished for this product, how are you going to determine what is an effective transfer price and what will be your process if you believe that someone is exploiting the market and not giving you your fair share of tax revenue?

**Mr Konza**—It is fair to say that perhaps the majority of our work in transfer pricing occurs in an environment in which there are no direct or satisfactory comparisons. That is, in areas of know-how, pharmaceuticals, chemicals and these sorts of things you cannot say, ‘Let’s look at this orange and compare it to the price of another freely available orange on the market.’ Your question about things like rare earths that are in very short supply is not an uncommon one in the transfer-pricing area. We try to look at similar situations, we employ economists who specialise in this area, we get the best advice we can and we try to work out whether the Australian entity is getting a correct return on the functions, assets and risks being deployed in Australia.

**Senator JOYCE**—If you are not getting the right return how do you deal with a corporate entity? Do you make an assessment and send them the bill?

**Mr Konza**—That is right. We do try to avoid double taxation. We try as much as possible to work with the government on the other side of that transaction to make sure that we are not taxing them on what we think is the right price, and then they are being taxed in their home jurisdiction on what they think is the right price, with the result that they are double taxed. At the end of the day, if we cannot reach an agreement it is our job to tax them on the prices that properly represent the functions, assets and risks deployed in Australia.

**Senator JOYCE**—How will you go about doing that with the Communist Peoples Republic of China? Are you going to send a letter in the mail to Beijing to tell them that you are not happy with things and you are going to try to sort it out?

**CHAIR**—The correct title is the Peoples Republic of China.

**Senator JOYCE**—The Peoples Republic of China, which is a Communist government. Will you send them a bill in the mail?

**Mr Konza**—I will clarify. Our job is to make sure that the taxpayer resident or operating within Australia is paying the right amount of tax. We do not issue bills to foreign governments. We issue bills to the domestic taxpayer. Whatever activity is being taken on in Australia is what we assess, and we deliver the bill there.

**Senator JOYCE**—As to the ultimate form of dispute resolution, if they do not pay it do you wind up the company?

**Mr Quigley**—The company has the opportunity to go to either the AAT or the court. The nature of these particular transactions, even though they are quite large, lends themselves more to the AAT.

**Senator JOYCE**—For the purpose of *Hansard*, what is the AAT?

**Mr Quigley**—The Administrative Appeals Tribunal. They hear these types of disputes, and there are obviously opportunities. If someone is dissatisfied with what comes out of the Administration Appeals Tribunal, they can be appealed to the Federal Court.

**Senator Sherry**—It is a little unreasonable to refer to just one country as you did earlier. There are a range of countries around the world with quite different methods of government to Australia. I think it is unreasonable to just focus on one.

**Senator JOYCE**—Let us call it country A. They are the 100 per cent owner of the asset. As you know better than anybody else, the related entity test is basically the same as the government, the same as any other entity in that related entity test. They get to the point where their position of commercial strength is such that they say: ‘Stick it up your jumper. I’m not interested in playing ball.’ What are you going to do? Are you going to try to liquidate the country to get your money back?

**Mr D’Ascenzo**—Other countries do not work directly. They work through entities. It is basically the entity that is incorporated in Australia and we would do what we normally do with any other entity in that situation and apply the normal ranges of assessment. The taxpayer has rights of objection appeal. If they are exhausted we would then take whatever recovery action we have and whatever assets are available to pay the tax due and payable we will seek to recover.

**Senator JOYCE**—I look forward to reading that in the tax manual. The Commissioner of Taxation v the Peoples Republic of China will be an interesting case to read about.

**Mr D’Ascenzo**—It would not be the country. They would operate through different structures. It would be the entity that they operate through where that might be the case.

**Senator JOYCE**—That is what you would like to think, but that is exactly how it would be seen. With respect to non-commercial loss rules that are coming into place, will non-commercial loss rules apply to superannuants collecting a pension in excess of \$250,000?

**Mr Quigley**—These are the proposed—

**Senator Sherry**—The tightening of the non-commercial loss rules.

**Mr Quigley**—Could you clarify your question?

**Senator JOYCE**—The non-commercial loss rules are for income earners earning in excess of \$250,000. I will direct you to the section of the act shortly. Non-commercial loss rules pertain to people earning over \$250,000 who have in the past been able to write off losses from, for instance, farms. That is being disallowed. Does that also pertain to superannuants collecting over \$250,000 a year from a superannuation policy? Obviously they have been contributing to that all their lives.

**Mr Willcock**—I might take a while to get to an answer to your question, or at least I will start further back. Non-commercial loss rules were introduced into the law back in around 2000, following recommendations from the Ralph review of business taxation. Those rules were designed to address the opportunity that some individuals had beforehand of avoiding tax by carrying on unprofitable business activities and claiming deductions for losses arising from those activities against their other income. Rules were put in place to limit that opportunity. At the same time there were some tests or exceptions to the rules that applied in relation to individual taxpayers. The government decided to, and announced in the budget that they would, limit access to those exceptions to the rule in the case of individuals who have an adjusted taxable income in excess of \$250,000 a year. The changes announced in the budget apply to individuals who have an adjusted taxable income in excess of \$250,000 a year and who are undertaking an activity that is effectively noncommercial in nature. As a result of the changes in the budget, that means that those individuals with that level of income will effectively not be able to claim business reductions in relation to activities which, in effect, are not business or commercial in nature. However, the provisions provide for such individuals to approach the commissioner to seek an exemption from these new rules that are being imposed under the budget. They can effectively approach the commissioner and say that, notwithstanding that the activity appears not to be commercial, in fact it is a commercial undertaking or is undertaken with commercial intent and with a view to producing income at some future time.

**Senator JOYCE**—The answer to the question is yes?

**Mr Willcock**—I am not sure that I actually understand where you are coming from with your question.

**Senator JOYCE**—If I have a farm with eight employees and I am collecting a superannuation policy that is paying me \$250,000 a year, because that business is making a loss am I able to claim that loss against the income tax that I might be assessable for or not?

**Mr Willcock**—I am still struggling with this. I am not being obtuse. I am not quite sure where you are coming from. The only point that might help answer the question is, as I said, that the budget announcement relates to people with an adjusted taxable income in excess of \$250,000. Working out what an individual's adjusted taxable income is means that you look at, amongst other things, the individual's taxable income and their reportable superannuation contributions. When you talk about people with superannuation, it may be that it fits in within that context. If there are reportable superannuation contributions and various other components that produce an adjusted taxable income in excess of \$250,000, this budget change would have the result of prima face preventing that individual from taking advantage of the deductions against their other income.

**Senator JOYCE**—It is a trick question and the answer is yes. The bigger question I am putting is: why?

**CHAIR**—I am sorry to interrupt. It is 1.30 and I think the committee has deserved its lunchbreak.

**Senator Sherry**—Just before we go to lunch, I am detecting a momentum here. Could we clarify in the lunch hour, given we seem to be comfortably keeping the pace with the schedule, and do a check to see whether it is the intention of senators to go right through to 11.00 pm or whether it is possible to bring forward some of those later agencies?

**CHAIR**—I take your point. At this stage I think we will stick with the schedule. I will keep monitoring that.

**Senator Sherry**—Thank you.

**CHAIR**—I thank the Revenue Group of Treasury and the Australian Taxation Office. We will resume with the Markets Group of Treasury after the lunch adjournment.

#### **Proceedings suspended from 1.31 pm to 2.31 pm**

**CHAIR**—I welcome the Markets Group of Treasury. Do you have an opening statement?

**Mr Murphy**—No, we can go straight to questions.

**Senator BUSHBY**—I will start with some questions that I tried to ask at an earlier Treasury estimates and was told to ask you about. Hopefully this is the right place for some of these. Does Treasury have access to any information regarding the practice of employers using a competitive tendering process to select their default fund for their superannuation guarantee contributions?

**Mr Brake**—We have had few a discussions with various industry participants about how default funds are selected. We are aware that the practice varies; some employees will tender out on that basis and others will not, but I do not have data available.

**Senator BUSHBY**—Do you mean you do not have data available today or you do not have data available to you or to Treasury?

**Mr Brake**—I do not believe we have data ourselves. I am not sure if there is any data that is available. The whole default fund issue will be one of the things which are being considered also by the superannuation system review led by Jeremy Cooper.

**Senator BUSHBY**—You used the words ‘not sure’; would you mind taking on notice to have a look to see if there is any information that is available to you?

**Mr Brake**—Yes.

**Senator BUSHBY**—Particularly showing how widespread the practice is. In framing the terms of reference for the Cooper review, what average income for do-it-yourself super funds was assumed?

**Senator Sherry**—I had responsibility at that point in time anyway for drafting the terms of reference. There was no specific consideration of the average. Did you say income or balance?

**Senator BUSHBY**—The average income for do-it-yourself super funds.



**Senator Sherry**—There was no specific consideration of that matter.

**Senator BUSHBY**—Are you able to tell me what the actual average income for do-it-yourself super funds is?

**Senator Sherry**—I am sorry to inform you of this; unless Mr Brake knows that is a matter for the ATO because the ATO oversight the self-managed super fund sector. Mr Brake may have some other information about that.

**Senator BUSHBY**—I have until Friday to put that matter on notice if I can.

**Senator Sherry**—Do you want to take it on notice?

**Mr Brake**—If I could take that on notice to the ATO that would be good.

**Senator BUSHBY**—Does the Cooper inquiry fully consider do-it-yourself funds in all industries? Do the terms of reference they framed around do-it-yourself funds apply to everything?

**Mr Brake**—Yes, it is self-managed super funds in totality.

**Senator BUSHBY**—This is probably a question for ATO again, but can you provide any information breaking down by industry or occupation the number of people running SMSFs?

**Mr Brake**—The ATO. The actual raw number that has been established is publicly available, but the detailed breakdown of that sort of nature would be the ATO. We will take it on notice.

**Senator BUSHBY**—In doing so can you also break it down into amounts held by industry or occupation and average incomes where possible?

**Mr Brake**—Yes.

**Senator Sherry**—Do you want fee levels as well? I think the ATO do have some data on that as well. We will take it in general detail in all those categories you have asked for.

**Senator BUSHBY**—It has been suggested to me that APRA's draft APS 210 is causing some consternation in the securitisation market to the extent that it proposes only recognising sovereign bonds as being liquid for the purposes of ADI's liquidity buffers. I understand there has been some consequent unwillingness by banks to invest in each other bonds in case APRA's proposed standard is adopted, and that is already happening even though the standard is only proposed. How does such a proposal and its timing work in with the desirability of fostering increased banking confidence and certainty in the financial sector? Is that a concern for Treasury?

**Mr Murphy**—I think in general terms it is a matter really for APRA to decide the level of the capital structure of financial institutions. Yes, there may be a trade-off there between fostering securitisation markets and capital adequacy of banks, but I mean APRA is the one who has the complete oversight of those matters. In my view we should be fully apprised of their thinking in terms of maybe other capital standards or the one quoted, but one would think that they are going to take the decision which is in the best interests of the financial system.

**Senator BUSHBY**—Similarly they need to be fully appraised of your thoughts. You have got a responsibility for looking at the banking market and how that operates. They do not work as an island; they need to work with you. If decisions that they make in delivering the outcomes that they are asked to deliver have impacts outside that area, then that needs to be taken into account.

**Mr Murphy**—That is it exactly. My understanding is that the regular practice in terms of prudential standards usually is that they put out exposures consulted upon with the industry. Treasury plays a role in talking to APRA about those and, yes, looking at it from a whole-of-system approach. Over time there have been some issues whereby APRA often puts out a standard which after due consultation is amended and becomes the final standard.

**Senator BUSHBY**—This is only a proposed standard, but from what I understand the fact that the proposal is out there is already having an impact.

**Mr Murphy**—I think at the moment in terms of policy—and I think it is appropriate—there is a rethink on some of the capital adequacy standards and other prudential standards in light of the global financial crisis.

**Senator BUSHBY**—I can understand why that is the case. APRA has a fairly limited focus in terms of what it is charged to deliver. You have got a broader remit I would think than APRA, and that is why I am asking you.

**Mr Murphy**—Yes, we have. But at the same time APRA has proved a highly successful prudential regulator—

**Senator BUSHBY**—I have no arguments with that.

**Mr Murphy**—and we would be guided by their views. But that does not mean that we totally agree with what they do. We would give them from a policy point of view and, as you say, looking at it from a system-wide approach and for the benefit of the Australian community, what is the best result so we would provide our views to them.

**Senator BUSHBY**—Has any analysis been done to ensure that there is enough domestic liquidity under the proposed standards to meet those requirements if all ADIs were required to invest in sovereign bonds or will it actually force ADIs to purchase foreign bonds to be able to comply?

**Mr Murphy**—We have not done that work but I would suggest that that is the type of work that would be done before a prudential standard in terms of requirements to invest in sovereign bonds was made.

**Senator BUSHBY**—Do you think that would normally be done before—

**Mr Murphy**—I think it would arise in the consultations. It may be better addressed to APRA, but I would think that either before the draft standard was issued or along the way that issue would be addressed.

**Senator BUSHBY**—Has any consideration been given to recognising AAA rated RMBS as liquid securities as part of a liquidity portfolio, especially given that the RBA accepts them for rebate purposes?

**Mr Martine**—I note APRA follows the Markets Group. As Mr Murphy has indicated, a lot of these issues in terms of the application of these sorts of standards are something that APRA closely consider. I am not aware specifically of the answer to your particular question but I am pretty sure that our APRA colleagues when they appear will be able to answer that.

**Senator BUSHBY**—I am certainly happy to ask APRA but, with these sorts of questions, from my perspective, it is advisable to ask you as well because it may be in your remit and you have the ability to look at more things.

**Mr Murphy**—In that there is an issue as to what would be regarded as gilt-edged securities. Arguably in Australia AAA rated RMBS have historically been very sound and prudent investments. That is why we did not have a subprime crisis. Mortgages in Australia are gilt edged. They are a good investment by banks. During the crisis there was an issue as to what central banks would recognise as securities they would buy. That flows into what a prudential regulator will recognise as securities going towards capital. These are judgments which there are good arguments as to whether or not they should be included or excluded as capital. I think some of these issues are being rethought at this present time.

**Senator BUSHBY**—I understand obviously after the events of the last 18 months or two years that there needs to be a lot of rethinking. But you are charged with looking at the operation of efficient markets in Australia and I would hope that you are looking at them making sure the changes that are made are responsible and reasonable but are not going to unreasonably interfere in the operation of markets within Australia.

**Mr Murphy**—Exactly. There are a lot of proposals at the moment coming out of the G20 which would affect the operation of Australia's capital markets. They are very much a matter of examination by Treasury and the appropriate regulatory agencies.

**Mr Martine**—In respect to the RMBS, one of the issues at the moment is a liquidity issue with respect to the secondary market on RMBS. At the moment there are just no buyers out there. That may very well affect APRA's thinking and consideration about liquidity at this point in time. It may be something that there is a different view on in the longer term, but certainly at the moment the RMBS markets are not very liquid at all.

**Senator BUSHBY**—Presumably, implementing an option that worked along those lines would actually significantly boost the securitisation market.

**Mr Martine**—It depends. One of the key issues with RMBS is to encourage the private investors back. Without any government involvement most of them are AAA rates anyway. We need to try to encourage them to purchase. One of the issues that we have been looking at is this question of liquidity and whether there are options to encourage the private investors to come in so that if they did want to sell in a secondary market there may be an alternative which could be the government, through the AOFM, possibly purchasing a portion of those RMBS assets that have been previously purchased.

**Senator BUSHBY**—The government has floated the idea of a further \$8 billion of support in a slightly different way to what has been put previously. Can you outline how that might work?

**Mr Martine**—The government announced on 11 October an additional further support for RMBS of up to \$8 billion. In the press release the Treasurer flagged a couple of potential changes to what had previously been undertaken. A core element of the further program will be purchases by the AOFM but one of the key issues that the Treasurer indicated in the press release that we are going to consult on, and we are currently consulting on in terms of its merit, is this liquidity question, what we call the liquidity facility. That would basically be where a private investor would purchase RMBS and there would be discussions with the AOFM and then there would be agreement that if that purchaser wanted to resell those RMBS in the secondary market and they could not because there were no other purchasers there would be sort of a back-up facility which would be this liquidity facility. That is broadly how it works. We are currently in the process of consulting with relevant parties on the merits of that and how it might actually work in practice.

**Senator BUSHBY**—Is that intended to actually foster greater activity in the secondary market?

**Mr Martine**—That is correct. The idea here would be to get the private investors to come in and buy the securities. The \$8 billion has just about been exhausted so far in the first program. I think more recently there has only been one unsupported government issuance of RMBS. The idea of this would be to encourage more private investors to come in and purchase these securities, but then they have that safety net that if in 12 months time, for example, they are looking to resell in the secondary market and there is no-one there they have got a bit of a backstop. That has been one of the concerns that came to us several months ago from industry, that one of the reasons why investors are not purchasing these securities is that they are worried that they will buy them and then be stuck with them and cannot sell them if the need arose. That is really one of our key changes.

**Senator BUSHBY**—One of the things I am not entirely sure about either is if the liquidity support to be provided is 100 per cent?

**Mr Martine**—Essentially it would sort of vary. Our view is that any RMBS that are subject to the liquidity facility have been approved to be part of the liquidity facility, basically the AOFM would take those securities back at the value of those securities. We are talking with industry at the moment but there will be things around fees and whether a haircut will be applied to the securities when the AOFM takes them back.

**Senator BUSHBY**—When is all this likely to be developed to a stage where it is actually actioned.

**Mr Martine**—In terms of the timetable we have only just started consultations. This was announced about a week and a half ago. We are anticipating that the AOFM could commence its direct investment program and hopefully will at least seek request for proposals before the end of the year. The government announced that we were consulting on the merits of the liquidity facility so the government will need to reconsider whether it actually goes ahead. If it does go ahead we anticipate it probably could be operational, say, in the first quarter of next year.

**Senator BUSHBY**—How does what IOSCO is currently looking at in respect of securitisation fit with the current and future direction of the securitisation markets here? You

mentioned G20 and the recommendation from that, and presumably there are recommendations that you think would work and recommendations that need more examination before they can be adopted here? How does that work?

**Mr Murphy**—The securitisation market was a very useful tool for funding of institutions in the Australian market. There were not poor practices and it was a quite successful operation.

**Senator BUSHBY**—Correct me if I am wrong, but I do not think anybody has actually lost any money on the securitisation market.

**Mr Murphy**—That is right. That is in contrast to internationally, where securitisation has got a bad name. Some commentators argue that poor practices in relation to securitisation markets were one of the contributing factors to such a downturn in financial markets. The IOSCO work is to develop general principles which would apply to all securitisation markets. As I say, I suppose the lack of confidence in the securitisation market at the moment in the Australian market just reflects international concerns.

There are two edges here. Looking at it, some of Australian second-tier banking institutions relied very heavily on securitisation. They were inclined more that way than going to overseas financial markets to get their funding. Also I think a third of the Australian securitisation market comes from overseas investors so we are very much locked in to what happens internationally. The IOSCO work is looking at how you can, I suppose, tighten up the rules and regulations and what regulators should be doing in relation to securitisation markets. Australia plays a role in the work of IOSCO and also their working groups through ASIC. I cannot give you the actual name of the person but, in terms of securitisation, I know that there could be an ASIC person there. As well, there is the secretary-general of IOSCO, Greg Tanzer, who is an Australian and a former ASIC employee. He is involved in some of these working committees.

Without in any way questioning the work of IOSCO or doubting its value, they usually produce things which have general application so that they are suitable for all financial markets. Again, we were involved and ASIC is involved and the G20 work is involved, but I suppose what we would be making sure would be that, yes, there is proper regulation of securitisation but at the same time they are rules that do not impede the Australian market for securitisation.

**Senator BUSHBY**—That explains it pretty well but it does not address one example of a concern that I could have under the general applications. I understand that one of the recommendations in the current IOSCO work is that the seller of an asset retain a degree of ownership in the securities—

**Mr Murphy**—Oh, yes, skin in the game?

**Senator BUSHBY**—Skin in the game, whereas APRA currently requires our ADIs to distance themselves from the securitised asset. That does not seem to work together.

**Mr Murphy**—That is more than an IOSCO recommendation. That is coming forward, if you had seen the material coming out of Pittsburgh—

**Senator BUSHBY**—I have not.

**Mr Murphy**—that is very much what people are thinking in terms of the G20, that there should be some, as they term, skin in the game. You can see the obvious reason for it.

**Mr Miller**—The subcommittee that Mr Murphy was referring to is referred to as T fund. I do not know the longer name for it. But Australia was deputy chair of the committee looking into that. Referring to skin in the game, if Australians want to operate overseas and these rules start applying themselves across the rest of the world, we have to have rules in Australia that ensure that they can do that. Otherwise they will not be able to access that market—

**Senator BUSHBY**—Which is really where I am coming to in terms of these questions. There are two aspects really that I am worried about. One is that there may be regulations or schemes put in place that are appropriate to protect the rest of the world from the problems that they had which actually are not appropriate in Australia where we did not have those problems. The flip side of that is to ensure that Australian business can operate overseas and that our regulatory regime is recognised overseas even though it may not actually have exactly the same regulatory framework.

**Mr Miller**—I think there are two issues there. I think ASIC is particularly looking at what to do about those who wish to access the market overseas. Of course there are the ones who will not wish to do that and do not necessarily want the same rules and so they are looking at how to set that up here within Australia and make both of those work.

**Senator BUSHBY**—I will move on from there because I have a few more questions to ask, unless there is something in particular you wish to add. Do you also look at the financial services market?

**Mr Miller**—Yes.

**Senator BUSHBY**—Can Treasury please explain just for the record the difference in roles between Treasury as a policy maker for the financial services system and ASIC as a regulator? What are your roles in respect of the financial services sector?

**Mr Murphy**—Treasury has responsibility for a wide range of matters and one of them is financial markets and financial services—

**Senator BUSHBY**—Really the financial services sector is what I am talking about.

**Mr Murphy**—It has got a clear policy mandate from the government to ensure that we have efficient and effective financial services and financial services which benefit the wellbeing of the Australian community. ASIC at this point in time has the regulatory responsibility to carry out the government's policies as largely set out in the Corporations Act, which encapsulates largely the government's policy in relation to financial services. Also ASIC would be cognisant of views expressed by members of the government as to what should be an appropriate role for a regulator in terms of enforcement and in terms of ensuring that there is adequate protection of Australian consumers in terms of financial services.

Treasury works to ensure that not only are the financial services markets working efficiently and fairly and takes cognisance of that, but also primarily its role is to give advice to the government as to whether that is the fact. To do that, we work relatively closely with ASIC. We work with and have strong ties to the various representational bodies within the financial services industry. We consult widely on the current policies. We also develop any

legislative changes for the government. We often have discussions, sometimes robust, sometimes quite ad idem with ASIC as to the policies they are adopting.

**Senator BUSHBY**—That sets it out very well and that last bit actually leads into the reason I asked that question—that is, it appears that ASIC in recent times have been adopting an increasing role as an advocate for policy reform in the financial services system and that is evidenced through their submission to the inquiry into financial products and services.

**Mr Murphy**—I take the view that that is not a bad thing. This may be a personal view from my position in Treasury, but I think we have gone through a period of time—and this is probably even before the GFC—where there were poor financial services practices in certain pockets within the Australian system. We have had Westpoint; we had that stream. We have had Storm Financial. I think ASIC is the one that has to come along and I suppose clean up the mess. ASIC is the one that the community and the government are looking to, firstly, try to prevent these things from happening through proactive action and regulation but, secondly, try to save what investments are lost for the individuals. Everyone is quite concerned when a lot of the people who are losing money in these investments are not wealthy individuals but people just trying to probably increase their superannuation packages.

**Senator BUSHBY**—I do not argue with any of that. What I am asking is the role of Treasury Markets Group in examining those issues, the role of ASIC in administering issues, regulating it and maybe highlighting where they think there are regulatory issues. Should they actually be effectively usurping your roles in policy advice and development and advocacy?

**Mr Murphy**—I think when they appear before a parliamentary committee and a committee asks them for their views they could be reticent and say that these are matters of policy. That is one way. Alternatively, because they have firsthand experience, I think they can either provide their views in open forums or they will provide their views to Treasury. The minister may have a different view, but at the moment ASIC—for instance, in the inquiry into financial planning—called for a strict liability duty placed on financial planners which would be much further advanced in terms of regulation for financial planners in Australia. That is an arguable case. I think if ASIC from their experience come to that view they should put forward that view. They put it forward to us anyway, but if they want to put forward that view they are the ones, as I say, who have to face the consequences of these things.

**Senator Sherry**—I agree. Mr Murphy mentioned some serious cases that have occurred in pockets that have not been a systemic threat. Another couple of cases that come to mind are Great Southern and Timbercorp. If you look at the number of average investors and the losses, and I do not have precise figures in front of me, the number of people affected is in the tens of thousands. It is not systemic threat but it is certainly very, very painful for the individuals who incurred those losses. ASIC is able to—certainly when I was the responsible minister—on occasions provide direct advice to the minister. The predominant advice came from the Markets Group when I was the minister, but there are occasions when ASIC will provide specific advice to the minister.

I understand, whilst not being privy to the advice from ASIC to ministers under the previous government, that that occurred under the previous government as well. The other point I would make is that when there is criticism of ASIC, justified or unjustified, and ASIC

is expected to respond at a committee hearing, whether it is the Joint Committee on Corporations and Financial Services or indeed at Senate estimates, I can certainly recall on quite a number of occasions again under this government and going back under the previous government where they have raised specific matters of regulatory policy that may require addressing. I do not think that is unreasonable, particularly when they have to respond to various levels of losses by individuals. I think that is appropriate.

**Senator BUSHBY**—There is a big difference between providing advice to the minister and making public statements advocating policy. I do not know whether they do this but presumably they could turn up in front of the inquiry into financial products and services and make statements advocating policy changes which may well not fit. Because they have a more specific focus as well, it may not actually fit into Treasury's view of what is best for the market in the overall sense.

**Senator Sherry**—Sure. At the end of the day it is up to the minister of the day to determine what he wants to adopt and recommend in a cabinet submission should it go that far.

**Senator BUSHBY**—That is fine in a cabinet submission because then there are reasons why that is confidential, but that is not so if it is out in the public through an inquiry. Or would they not make a submission like that without clearing it through Treasury in the first place?

**Mr Murphy**—ASIC, APRA and the ACCC have all been reasonably circumspect as to advocating policy change but, in recent times, given some of the shakeout that we have had in certain parts of the industry, ASIC—and I cannot speak for them—thought these things were important and that they needed to put it on the record. I did not feel that that was in any way usurping the role of Treasury. ASIC and APRA come forward with lots of proposals to Treasury which we work with on a bilateral basis and probably they do not get aired. In certain instances I think the chairman of ASIC felt it was good to have a public debate on some of these issues.

**Senator BUSHBY**—There has been a lot of discussion and a lot of submission, including from ASIC, to the inquiry into financial products and services discussing the banning of various forms of remuneration in the financial services sector. Has Treasury conducted any financial modelling or analysis on the impacts that these bans on those forms of remuneration may have on employment and the economy as a whole?

**Mr Miller**—No, we have not but as per our submission to that inquiry we believe there are probably multiple ways of addressing the problem and we did set out a number of different ways of addressing this problem. Banning is one way but there are various ways. When the committee settles on a concept or an idea that comes out in their report we will certainly look at that in some detail and do the necessary research to see what result each of those options they may come up with might have.

**Senator Sherry**—At the end of the day, the report of the committee is a report to the government, or the minister in this case, and it is up to the minister to respond on the recommendations, and whether he accepts, rejects or adopts in whole or part.



**Senator BUSHBY**—I was just trying to focus on where those discussions are being held. It is a broader thing that I was asking about rather than just that report. I was wondering whether Treasury had looked at those issues in a general sense.

The strategic issues report on retirement and income policy as part of the Henry tax review argues that the superannuation preservation age should be lifted to 67. Has Treasury done any attitudinal research to assess what the impact of this change would have on the mindset of Australians to make voluntary superannuation contributions?

**Senator Sherry**—That was an interim report not the final report?

**Mr Murphy**—Yes.

**Senator BUSHBY**—Once again, it is changes like this that have the potential to impact on the efficiency and the operation of the markets, and I am interested in Treasury's view.

**Mr Murphy**—It is clearly a Henry review matter. They are undertaking extensive consultation.

**Mr Martine**—I understand it is an issue that the tax review people have obviously been looking at, so if there is any issue of research which may or may not have been undertaken it would be more an issue for them. I am not quite sure what the answer is to your question.

**Senator Sherry**—I would just point out that there have been previous occasions when the preservation access age has been increased from 55 to 60. I suppose we could take on notice to check whether there were any attitudinal studies undertaken there. The other probably relevant area is the increase in the female pension access age from 60 to 65; although there is no saving directly as a consequence there might be some relevant attitudinal surveys. I do not recollect any, but we could certainly take it on notice and check.

**Senator BUSHBY**—In recent weeks we have seen increasing activity with respect to the private sector coming forward with annuity products to address longevity risk issues. In light of this, do you believe that there is a role for government in the provision of these products, given the experience of the bank guarantee, whereas if the public believe a product is guaranteed they will go with that product over one provided by the private sector?

**Senator Sherry**—It is a Henry tax review matter. They flagged in their interim report an interest in this area—the issue of annuities and longevity risk and how that is covered—but they have not finalised a recommendation. I might say the form of annuity pension purchase and how it is underwritten is a matter of worldwide debate. But I am sure the Henry review will have some conclusions on that.

**Mr Murphy**—In relation to the guarantee, you are saying that people sought to pull money out of the frozen fund sector and put it into deposits because it was government guaranteed.

**Senator BUSHBY**—That is right and what in fact government intervention in this market may actually have on the market itself.

**Mr Murphy**—I think that the government's policy in relation to the guaranteeing of deposits has a limited time life and in the circumstances I think that was a very judicious act and a necessary act to guarantee deposits. What you will find is that there will be a risk spectrum there and usually guaranteed deposits will pay a lot less return than non-guaranteed

deposits. In terms of annuities—I might say even the frozen funds, the mortgage funds—there has been no failure of any of these alternative investments. I know some of them are still frozen but that is a long way from a failure. You might find over time people will be able to make their own decisions as to what risk they wish to take and what return they wish to take on their investments.

**Senator BUSHBY**—In normal circumstances that is probably reasonable but where you have periods like we have had in the last 18 months people do tend to take flight to quality and that can distort the markets even though the products that they are leaving may well be quite safe and are producing healthy returns.

**Mr Murphy**—We could get you numbers but there was an initial flurry of movement of funds, but that settled down very quickly. The movement from non-banks to banks settled down. Once the government intervened and said that bank deposits are secured that seemed to arrest a lot of the concerns in the community.

**Senator BUSHBY**—It arrested a lot of concern but it was done deliberately to actually achieve the psychological outcome that this may well actually introduce.

**Mr Murphy**—You need to do it.

**Senator BUSHBY**—I do not argue that there was a need for the government guarantee. We have had an inquiry into that and there is a report where we acknowledge that. The terms of a parallel as to how people react to government interventions is really the question. But we will move on from there—

**Mr Martine**—Mr Murphy's point is very important about that sort of risk-return trade-off. Perhaps initially at the height of the GFC the government intervention provided that stability and as an investor you would go to those safe sorts of assets. But then, over time, even with the guarantees in place investors become more comfortable and confident in the global system and you would expect them to then go and chase those higher returns that maybe are not guaranteed and make those sorts of judgment calls. We are seeing more and more of that happening and the markets are settling down.

**Senator BUSHBY**—Is Treasury investigating a retail compensation scheme to address the gaps in consumer compensation mechanism in terms of superannuation?

**Mr Miller**—Across financial services, not necessarily just for superannuation, we do have various requirements for professional indemnity insurance and other things to ensure there are compensation mechanisms. The sorts of schemes you have talked about plus many other options are thought about every time we have one of these issues about. Is there sufficient professional indemnity insurance around? Is it getting too expensive? What would the other options be? If, for example, the financial advisers could not get this type of insurance that allowed for compensation in times of problems, what are the other options that we might look at. Certainly issues like that have been thought about but it is just one of a number of options that Treasury thinks about in case the existing system that we have in place does not work.

**Senator BUSHBY**—At this stage it is just floating around in the ether? You have conducted no modelling of different compensation structures that might be employed to actually deliver such a scheme?

**Mr Miller**—Not that I am aware of. I have seen a suggestion by the Financial Ombudsman Service, I think it was. They did some work on that. We certainly looked at the work they had done on that. There are people outside of Treasury who certainly have done some work on that and we keep—

**Senator BUSHBY**—Organisations like Choice have been advocating things.

**Mr Miller**—Yes, that is right, Choice had spoken to FOS about the same thing. We keep a close monitoring of those papers and research that they have done because it all adds to that whole picture of what options we might need into the future if there is a problem, but at the moment there is not.

**Senator Sherry**—Section 23A. In the event of theft and fraud in a superannuation APRA prudentially regulated sector, it does not include SMSFs—I have to say most people do not appreciate that distinction—where there is compensation up to 90 per cent in the event of theft and fraud. There is a post-event levy applied across the entire sector. Witnesses and officers may be aware that there have been a couple of cases. They were small in the context of the system but that mechanism was introduced 20 years ago, I think, when the original SI(S) Act was introduced because it was felt by the government at the time that where you have something that is compulsory, long term and complex for retirement that in the event of theft and fraud—that is clearly very different from a market related return—it would be untenable not to provide compensation in those circumstances. Indeed most of the countries of the world that have compulsory type private sector invested and/or administered retirement income systems do have a similar type mechanism.

**Senator BUSHBY**—I was asking about broadening that out to a broader level. What is the current market share of each of the four big banks in terms of residential home loans, small business loans and household deposits?

**Mr Murphy**—I will just get the numbers.

**Mr Martine**—We may have to take that on notice.

**Senator BUSHBY**—It is the obvious question about the banking market, I would have thought, the market share.

**Mr Martine**—It is just in terms of having the statistics in front of me. I am more than happy to talk about the issues you may want to talk about. So, the share of residential home loans and business—

**Senator BUSHBY**—In terms of the four big banks, small business loans and household deposits.

**Mr Martine**—The data I have in front of me is aggregated data that does not break it down between the majors and the other institutions.

**Mr Murphy**—We do track that. We just do not have it here.

**Senator BUSHBY**—I express surprise. I thought that that would probably be an obvious question that you would be asked and that you would probably bring that information with you.

**Mr Murphy**—We brought a folder this big, as you can see.

**Senator BUSHBY**—In taking that on notice, can you also let me know how that compares with the corresponding market share for each of those three areas from 12 months earlier and 24 months earlier?

**Mr Murphy**—Yes, we have been watching that.

**Senator BUSHBY**—Is Treasury able to provide any information about fee and commission income for banks? If so, what do the most recent figures indicate compared with 12 months earlier?

**Mr Murphy**—Yes, we have tracked that as well.

**Senator BUSHBY**—Could you also assess how the limited fee reductions announced around August will impact on the banks, given their increased market share?

**Mr Murphy**—We have a program—

**Mr Martine**—Certainly, as Mr Murphy has indicated, we collect a lot of that data. A lot of it is undertaken through data collection by APRA. APRA collects a lot of data but more recently, particularly for the last 12 months or perhaps a bit shorter than that, certainly in this calendar year, we have engaged quite actively particularly with the four majors in collecting more data from them and getting a better understanding of changes in lending, changes in lending practices, profitability, fees, et cetera. We have been quite active in collecting that data.

**Senator Sherry**—I assume that is a request for banks' traditional activities because a number of the banks own superannuation subsidiaries.

**Senator BUSHBY**—I am really interested in terms of their activities in the banking—

**Mr Martine**—The household business?

**Senator BUSHBY**—Yes, that is right.

**Mr Martine**—We will take that on notice.

**Senator BUSHBY**—I will move on to short selling. I have a few questions on this and a few questions on the CAMAC review and then that will be it from me. I understand there have been some draft regulations finally released on short selling on 2 October? What took so long to release those draft regulations? I have been asking about them at every estimates since February—

**Senator Sherry**—It is a matter—

**Senator BUSHBY**—and the minister with his previous hat on promised them in a very short term after each one and we have only just seen them.

**Senator Sherry**—That is a matter that I would have to take on notice to the minister, Mr Bowen.

**Senator BUSHBY**—You were minister for probably six or seven of the 19 months it has taken to develop them since—

**Senator Sherry**—I was minister until June and I recall you asking about it in May. I did make some comment at that point in time. It is on the record. I made some public comments—

**Senator BUSHBY**—I think the word you used was ‘impending’ at that point.

**Senator Sherry**—I would have to refresh my memory—

**Senator BUSHBY**—Well, the word had similar meaning, if not exactly—

**Senator Sherry**—I will accept I used that expression or something very similar if I did not say that exactly, because I also said that publicly on a number of occasions. But it was a very complex area that was highly contested in terms of the detail and the new minister, Minister Bowen, obviously considered the matter, as was his prerogative. It would not surprise me if the same interest groups were wanting to discuss the matter with him. I do not know. That is his prerogative if that is the case. But as for the timing itself, it is something that I would have to take on notice and refer to Mr Bowen as to the reasoning for the time frame.

**Mr Murphy**—It actually goes back to the issues you raised in the opening comments about balance in terms of regulation and market practices. Short selling is an appropriate tool in certain circumstances. It does provide information and tests the share price of corporates. It is the balancing off of the corporate spruiking of their underlying value versus the short seller who comes in and questions that. In appropriate circumstances it does provide a benefit to the market. You have to balance that off with the need to ensure that the public interest is protected in the information getting out there about who is short selling and what institution is being targeted. The reason the government got into this space and needed to tighten up short selling was that we felt that certain financial institutions at a time when globally financial institutions were under stress certain institutions were being targeted by short sellers. The reason it has taken some time is that it is quite a complex matter to try to get the balance right between not prohibiting short selling outright by bringing in rules and regulations which force it out and keeping it and at the same time getting proper disclosure.

**Senator BUSHBY**—I do not disagree that there are complex issues that need to be worked through, but I recall when the legislation was going through the Senate late last year the minister with his previous hat on in the Senate claimed that the legislation needed to be passed urgently so that regulations could be put in place by February and it could not wait until we came back in January.

**Senator Sherry**—The legislation did more than simply provide for the regulatory base for establishing regulations around disclosure—

**Senator BUSHBY**—It provided absolute certainty—

**Senator Sherry**—There was a gap in the law. There was some doubt about the legal ability of ASIC to introduce interim disclosure provisions. That needed to be confirmed. So it did more than just provide the legal basis for proposed ongoing disclosure regulations. On that issue I would point out that despite the time frame ASIC does have in place an interim disclosure regime which continues until such time as these regulations come into force.

**Senator BUSHBY**—I will not argue with the point you made about the need to clarify ASIC’s powers, which is really what that urgency was, but at the time I believe there were also claims made that it needed to be passed so the regulations could be put in place by February. I recall Mr Murphy saying at the inquiry that the regulations were anticipated to be put in place by February this year. Despite acknowledging the complexity of the issue and the

need to get it right, it just seems to have taken a very great deal of time given the urgency that was suggested for the need to get the regulations in place.

I have one other question on the actual regulations themselves. I understand that positional reporting will not actually begin until April 2010.

**Ms Kljakovic**—That is right.

**Senator BUSHBY**—That is 18 months after the bill was actually passed. Not only have we had the 10 or 11 months to this point to get the draft regulations out there, we now have another six or so months before the positional reporting will actually occur. It seems to have dragged on a lot.

**Ms Kljakovic**—One thing that is causing the delay in addition to the complexity of working out exactly what sort of disclosure we should have and when we should have it is the necessity of aligning all the IT systems of the various brokers and ASIC. We are informed that does take several months to set up those IT systems.

**Senator BUSHBY**—But these are still under draft regulations as well.

**Ms Kljakovic**—They are draft regulations at this stage.

**Senator BUSHBY**—Is that sufficient for the industry players to invest in those IT systems to set it up, or when will the regulations be finalised?

**Ms Kljakovic**—They are up for consultation at the moment. Submissions close this Friday. We hope that the regulations will go before the executive council in November and that will give certainty so that people can start paying vast sums of money to install systems.

**Senator BUSHBY**—I will move on from there to CAMAC reviews. The market integrity CAMAC review reported in July 2009. Is a response to this review being prepared?

**Mr Miller**—Yes, at the moment the ASX and ASIC are looking at many of the recommendations coming out of the CAMAC market integrity report. There are various aspects of it, everything from the directors' margin lending, which is really the ASX looking at that specifically; blackout trading, which again the ASX and the ASX Corporate Governance Council are considering the recommendations around; and spreading of false and misleading information. At the moment, for example, ASIC has a discussion paper out on rumourage, so it is all wrapped up in that aspect. There are also other things around private corporate briefings to analysts and again, yes, ASIC has got a review on that as well. Mind you, CAMAC did not actually recommend any legislative change but ASIC is also doing work on that. A number of pieces of work are being done to take this review to the next step before the government can really respond fully to it.

**Senator BUSHBY**—Basically you will put all that together, advise the government and then see what the government responds with?

**Mr Miller**—Yes.

**Senator BUSHBY**—The answers may be similar in a lot of ways to that but there are another three that I want to ask about; the board diversity CAMAC review, which reported in March 2009?

**Mr Miller**—Again the board diversity report is one that the ASX Corporate Governance Council is specifically considering the recommendations on that report and we are going to wait to see what comes out of that.

**Senator BUSHBY**—Where is that at? Has the bureaucracy completed its analysis on that yet and provided its advice to government or is Treasury still looking at it?

**Mr Miller**—We are still looking at it. We are going to give advice to government once the Corporate Governance Council has completed its work?

**Senator BUSHBY**—The shareholder claims against insolvent companies CAMAC review reported in January this year.

**Mr Preston**—In relation to that report, Treasury is still in the process of providing advice to government on that.

**Senator BUSHBY**—Advice has not been provided yet?

**Mr Preston**—No.

**Senator BUSHBY**—The long-tail liabilities CAMAC review which reported in June 2008.

**Mr Preston**—Treasury have not provided advice to government on that report.

**Senator BUSHBY**—Will Treasury be providing advice to government on that?

**Mr Preston**—I cannot say that for certain at the moment.

**Senator BUSHBY**—At this stage, government has not asked for that to occur?

**Mr Preston**—We have had no requests from government about it.

**Senator BUSHBY**—I hope that is not because it was commissioned during the Howard government.

**Mr Preston**—It is usual practice but I might—

**Mr Murphy**—We can comment on the report.

**Senator BUSHBY**—Is the usual practice that you do?

**Mr Murphy**—Yes.

**Senator BUSHBY**—But you have not on this despite it being reported some 14, 15 months ago.

**Mr Miller**—Unlike committee reports from parliament on which we will always give advice, it is not an actual requirement that either government react to a CAMAC report or that we necessarily give advice on that. It depends on what the report is on. But the normal course of events is we would give advice to the government on a CAMAC report, yes.

**Senator Sherry**—Just as a general observation, you seem slightly critical about the timing response on some of these issues. In the context of what the markets have generally had to face—I know all the officials in the market section and other areas of Treasury for that matter, but I have had some direct responsibilities in relation to those—they have worked extraordinarily hard on an incredible range of issues over the last 18 months, issues I do not think any of us ever expected we would have to be dealing with. The workload and the pressure have meant that we have had to prioritise issues. Some have assumed greater

importance, given the times, than others. Notwithstanding that of course a great deal has been accomplished. There are national consumer credit laws for example and other issues that I could highlight. I just want to temper your concern with that background.

**Senator BUSHBY**—That is fine. I will leave it at that for the moment. I might have some other questions which I do not have in front of me but I will see if I can hunt them out if we have time at the end. Thank you.

**CHAIR**—We will take a short break.

**Proceedings suspended from 3.33 pm to 4.03 pm**

**CHAIR**—The committee will resume with the Markets Group of Treasury and questions from Senator Joyce.

**Senator JOYCE**—Thank you very much. My question is to FIRB, so I direct it to Mr Colmer. Mr Colmer, I saw you give a speech the other day, which was televised, regarding Foreign Investment Review Board guidelines. Is that correct?

**Mr Colmer**—Yes.

**Senator JOYCE**—What was the theme of that speech?

**Mr Colmer**—It was a speech to the Australia China Investment Forum. Essentially, the speech was about trying to give some practical advice to people who are pursuing investment arrangements.

**Senator JOYCE**—From what I could see of the tenor of the speech, there was a sense of: ‘Things have been overblown in Australia. You might have read reports in the media, but everything is A-okay and we’re looking forward to going forward, in a proactive sense, with state owned enterprises from China.’

**Mr Colmer**—The speech was trying to put the whole foreign investment regime into perspective. Certainly I did make the point that quite large numbers of cases have gone through without any public controversy whatsoever.

**Senator JOYCE**—It certainly is the case. Where are we at currently with OZ Minerals? Has that been completed now?

**Mr Colmer**—The OZ Minerals deal was completed. I think that was probably in May. It was some time back but it was around that time.

**Senator JOYCE**—Is it correct that the structure is completely owned now by Minmetals?

**Mr Colmer**—With the exception of the Prominent Hill mine which, from recollection, was close to half—it might have been 40 to 50 per cent—of the value of the overall company. I cannot remember the exact detail.

**Senator JOYCE**—Apart from Prominent Hill, is it correct to say that no conditions were put on that deal?

**Mr Colmer**—OZ Minerals made, as part of their proposal, a series of undertakings around the way that they would operate the company. I do not have the actual detail here with me. There was a press release from the Treasurer at the time that set all that detail out, but essentially undertakings were provided by Minmetals as part of their application.



**Senator JOYCE**—Did you refer in your speech to the Stern Hu case?

**Mr Colmer**—No.

**Senator JOYCE**—Why not?

**Mr Colmer**—The Stern Hu case is not central to foreign investment issues.

**Senator JOYCE**—Why do you say that? He is a director of a foreign company that is involved in China and Australia and is involved in negotiations about iron ore.

**Mr Colmer**—Yes, he is. But that is not a foreign investment issue.

**Senator JOYCE**—The sale of iron ore to China is not a foreign investment issue? The involvement of Chinalco wishing to purchase 18 per cent of Rio is not a foreign investment issue?

**Mr Colmer**—I did not say that about the involvement of Chinalco and their interest in a particular case. The simple position is that the government is dealing with the Stern Hu case as a consular matter. The behaviour of Stern Hu or any other executive could be a consideration if we were considering an application from the company that employed him, but it is certainly not a general issue around foreign investment.

**Senator JOYCE**—The behaviour of Stern Hu is not known to anybody, because he is incarcerated.

**Mr Colmer**—Exactly. So how can it be a foreign investment issue?

**Senator JOYCE**—Because it is a reflection of a process of what happens with a company involved in Australia, its negotiations with another entity and the strong disposition that his incarceration maybe affected by that deal.

**Senator CAMERON**—You just do not want Chinese investment; that is your problem.

**Senator JOYCE**—I know that you do not want to go to defend the person. I know that there has been an incredible silence about Stern Hu. But, while he remains locked up in jail, somebody, somewhere, has to speak up on his behalf.

**Senator CAMERON**—Yes, but you should be honest about your motives. It is not about Stern Hu.

**CHAIR**—Senator Cameron and Senator Joyce!

**Senator JOYCE**—Something has to happen.

**Senator CAMERON**—You know that—

**CHAIR**—Senator Cameron and Senator Joyce, I do not want debate across the committee. That is enough.

**Senator Sherry**—Chair, to respond to the question: questions and issues relating to Mr Hu are matters for the foreign affairs estimates. They are not matters for the Markets Group of Treasury regarding foreign investment.

**Senator JOYCE**—They are concerns that—

**Senator Sherry**—As I said, if the senator wishes to pursue concerns about that particular matter, as is his right, it is not a Foreign Investment Review Board matter; it is a matter for foreign affairs estimates.

**Senator JOYCE**—Let us make it a matter for the Foreign Investment Review Board. Do the Foreign Investment Review Board guidelines take into account the actions of other parties and how they deal with directors of companies?

**Mr Colmer**—The Foreign Investment Review Board, when examining cases, tries to take a view on the way that companies operate, but I do not see how you can draw a line from there to the particular case at hand.

**Senator JOYCE**—I can draw a direct line. Who owns Chinalco?

**Mr Colmer**—Chinalco is a Chinese state owned enterprise.

**Senator JOYCE**—But what percentage of it is a Chinese state owned enterprise?

**Mr Colmer**—Chinalco itself is 100 per cent state owned but it has a variety of subsidiaries with different stakeholdings.

**Senator JOYCE**—It is a 100 per cent state owned enterprise. Does the Chinese government have a policy of coordinating foreign investment from within China to external countries?

**Mr Colmer**—The Chinese government has a variety of controls over state owned enterprises. How far that goes down to the sorts of links that I think you are trying to draw is a very difficult question.

**Senator JOYCE**—Does the Chinese government have a centralised control mechanism for the investment of state owned enterprises overseas so as to make sure that those state owned enterprises do not compete against each other?

**Mr Colmer**—I do not think I can answer that question. I can say that the Chinese government has an approval mechanism through the National Development and Reform Commission for outgoing investments, but I would not like to go any further than that down the line you are pursuing.

**Senator JOYCE**—It has an approval mechanism under the National Development and Reform Commission. I am sorry; I will change my diction so that we have the acronym right. But it is basically the same underlying direction and control. The National Development and Reform Commission has an approval mechanism just to dissuade any assertion. Can a state owned enterprise operate outside that approval mechanism, or is it imperative that they have that approval mechanism?

**Mr Colmer**—There are probably people who are better placed to answer that than I am. But my understanding is that the approval mechanism has a set series of criteria for investments that need to be approved for particular state owned enterprises that come under that. There are a variety of different state owned enterprises in China. Some major ones are run from the central government under what is called the SASAC. I believe that stands for the State Assets Supervision and Administration Commission. Some of the state owned

enterprises come under that regime and some do not. Some investments that they make come under the regime and some do not. That is certainly not something that I am an expert in.

**Senator JOYCE**—How many state owned enterprises have applications before you currently?

**Mr Colmer**—I would have to check the actual number, but possibly it is somewhere in the order of 40 or so.

**Senator JOYCE**—Forty or so.

**Mr Colmer**—Possibly. I would have to check the number.

**Senator JOYCE**—Of those 40 or so, how many are from China?

**Mr Colmer**—I would have to check that. It would be the majority.

**Senator JOYCE**—The majority. Greater than 30?

**Mr Colmer**—I would have to check the figures.

**Senator JOYCE**—Please take that on notice.

**Mr Colmer**—I will take that on notice.

**Senator JOYCE**—You would say ‘the majority’.

**Mr Colmer**—I mean—

**Senator JOYCE**—Say what you know. Do not be—I know you are not being—evasive. If you know that it is more than 30, say that it is more than 30. I am not going to hold you to it if it is 29 or 32.

**Mr Colmer**—I will take the question on notice.

**Senator JOYCE**—Thank you. Is that because you are not sure?

**Mr Colmer**—I would like to check the numbers.

**Senator JOYCE**—What would the value of those investments be?

**Mr Colmer**—Again, there is a variety of some that are reasonably small and others—

**Senator JOYCE**—No; in total.

**Mr Colmer**—I would have to check that number.

**Senator JOYCE**—Can you give me a rough idea? Are we talking tens of billions or hundreds of billions?

**Mr Colmer**—Certainly not tens of billions. There are quite likely to be billions of dollars in that pool.

**Senator JOYCE**—Have there been any changes lately in the FIRB guidelines? We have put the report out; I know that.

**Mr Colmer**—No.

**Senator JOYCE**—Since the report from the Senate Economics References Committee, have there been discussions about anything to do with FIRB guidelines?

**Mr Colmer**—I guess we are always looking at the way that the systems operate. For example, you would be aware that, just in September, the basic thresholds for the foreign investment system were changed. But no new guidelines have been issued. We are looking at the Senate report and that will be responded to in due course, in line with the established report process.

**Senator Sherry**—The minister will respond once he has considered it.

**Senator JOYCE**—With the advent of state owned enterprises, does FIRB acknowledge that the predominant motivation of a state owned enterprise is not determined by the short-term goals of profit motivation; they are looking at long-term strategic interests, as they are, in essence, a sovereign asset of a government?

**Mr Colmer**—State owned enterprises are not one monolithic group; there are a variety of state owned enterprises. Especially over the last 12 months there has been quite a significant growth in state owned enterprises. Most of the major banks in the world are now state owned enterprises. I hope you are not suggesting that they are taking a short-term view of their operations.

**Senator JOYCE**—The genesis of banks is by reason of the requirement that if they were not state owned enterprises they would be broke. But it does reinforce the argument that if they had not been removed from the market system they would be broke. It is very well put that you bring up banks, because if they followed or were to avail themselves of market principles those banks would not be there. So that reinforces the argument that a state owned enterprise does not comply with the articles of how a market works.

**Senator Sherry**—But, Senator Joyce, there are not just foreign either partly or totally owned banks; there are state owned partly or wholly owned other enterprises in Europe and throughout Asia—car companies as well—that seek to invest in Australia. So we are not just referring to the banks of the last 18 months that have been either partly or wholly nationalised. There is quite a diverse range of state owned enterprises in various countries around the world.

**Senator JOYCE**—As you are currently aware, China is holding \$2 trillion worth of US reserves; Japan holds \$1 trillion and the rest of the world holds about another \$1 trillion. Quite obviously, this money has to find a home as US currency, because of their excessive debt levels, starts moving towards a period of possible crisis. That is not my statement; that is a statement from a professor from Missouri who was here the other day. As these funds go looking for a home, the natural thing is to turn paper money into real assets, with Australia being a great source of those real assets. Noting at the moment the ownership of rare earths by the People's Republic of China, which is a communist government, do you have any concerns at all about market concentration? With the ownership of those rare earths, do you have or have you ever conveyed any concerns at all about market centralisation by related entities under the banner of a government?

**Senator CAMERON**—Can I ask a question on that point?

**Senator Sherry**—I would like to answer Senator Joyce's question first.

**CHAIR**—The senator has not even had it answered yet, actually.

**Senator Sherry**—The only context in which the matter of rare earths has come before the Foreign Investment Review Board relates to the Lynas application. The government did not have to make a decision on that application. The details of the application remain commercial in confidence and the application was withdrawn.

**Senator JOYCE**—Who handed you that piece of paper?

**Senator Sherry**—One of my staff.

**Senator JOYCE**—I was just curious.

**Senator Sherry**—There is nothing unusual in that, Senator Joyce. You have your electronic connection there, which buzzes away sending you questions.

**Senator JOYCE**—It is black; there is nothing there.

**Senator CAMERON**—Nobody emails me either.

**Senator Sherry**—The case of Lynas was withdrawn by the applicant. These matters are considered by the Foreign Investment Review Board and a recommendation is made to the Treasurer or his delegate, who in some cases is me, and they are considered in the national interest.

**Senator JOYCE**—As there is an issue with the Foreign Investment Review Board and in light of the Chinalco-Rio collapse of that deal and other issues—it would be foolish to say that it has not been at the forefront of discussions regarding foreign investment from China with Australia—has the Prime Minister made a representation regarding Stern Hu directly to the Chinese Premier, Hu Jintao?

**Senator Sherry**—Because this is not the appropriate estimates committee, which is foreign affairs, I would have to take on notice—and I am not even sure that I can take it on notice—representations made in that matter. However, I will refer the matter to the foreign minister's office. But this is not foreign affairs estimates. In fact, Chair, I would be interested in seeking your guidance on this. I am not sure that I have the capacity to take on notice, for another committee, a question for which an answer is being sought.

**Senator JOYCE**—This is the confusion though, isn't it? Once we have state owned enterprises, ultimately the line between foreign investment and diplomatic issues becomes blurred. Can you tell me, in the instance of the Foreign Investment Review Board, when did state owned enterprises, in the form you see them now, come into pre-eminence, or have they always been there to the same extent that they are there at the moment?

**Mr Colmer**—State owned enterprises in various shapes or forms have been around for many years.

**Senator JOYCE**—I know they have been. I am asking whether, in the number and pre-eminence of the deals that are before you, you are dealing with them to the same extent.

**Mr Colmer**—It is fairly well recognised that there are probably two things currently operating that have changed the dimensions of state owned enterprise investment over the last 12 to 18 months. The first is an overt policy by China to invest overseas—they are investing around the world, not only in Australia—and the second is the global financial crisis, which has led to a renationalisation of many companies around the world. Those two factors together

are the key to the growth in state owned enterprises. But, putting that aside, we have had foreign government investment in various forms for many years, through sovereign wealth funds, overseas pension funds and state owned enterprises.

**Senator JOYCE**—To the same extent that you see them now?

**Mr Colmer**—No. I said that there has been growth over the last 18 months.

**Mr Murphy**—But probably even before that 18 months, putting aside the GFC, there was an increase in sovereign wealth funds. That was reflected in the fact that the IMF started looking at what should be the appropriate operations of sovereign wealth funds. David Murray, formerly of the Commonwealth Bank and now the Future Fund, chaired an international working group for the IMF on sovereign wealth funds. That contributed also to the government issuing new principles on sovereign wealth funds.

**Mr Colmer**—That was February 2008.

**Mr Murphy**—Yes, 2008. So you are right: there has been not a surge but a move towards sovereign wealth funds.

**Senator Sherry**—I have some further information. Australia in recent times has established—in fact, it was the former Liberal government—the Future Fund; many would see that as a form of a sovereign wealth fund. I can provide some information on Mr Hu, even though this is not the foreign affairs estimates. The Australian government is giving this matter its full and constant attention. The foreign minister, Mr Smith, has made some statements on this matter. We do take a responsible and methodical approach and are taking every appropriate opportunity to raise this matter at the right level with the Chinese government. Australian officials deal with this matter systematically and sensibly. The government has conveyed to the Chinese government that the issue should be managed carefully and expeditiously. The Chinese government has confirmed that the case is continuing in accordance with Chinese law. Our priority is that Mr Hu's interests are properly protected. We have taken our consular responsibilities seriously. The matter is separate from our productive and strong economic relationship with China. Our relationship with China is a broad one, within which we pursue our full range of interests and, as with all our trading partners, differences can be managed effectively.

**Senator JOYCE**—Has the Prime Minister made any representation?

**Senator Sherry**—In terms of any further detail, as I say, I am not sure of my capacity to 'take on notice'. It is not unusual from time to time to have an issue where questions are raised in one or more estimates committees. Senator Joyce, I would suggest that you should have raised or can raise—I am not sure whether foreign affairs has actually been completed—any further questions on that with the foreign affairs estimates committee. I am trying to be helpful. You have raised the issue, I think, incorrectly, in the wrong estimates committee. I am just trying to be helpful and point to the actions taken so far by the Australian government on that matter. But I would emphasise that it is separate from our economic relationship with China.

**Senator JOYCE**—I just thought that, while he is talking to them in Mandarin about climate change, he might be able to speak to Hu Jintao about Stern Hu.

**Senator Sherry**—Do you have any further questions?

**Senator CAMERON**—Can I ask a question on this point?

**Senator JOYCE**—Yes.

**Senator CAMERON**—Minister, I am new to this process, so I apologise that this is not the area in which to ask the question. But, given that this issue of our relationship with China has been raised, could you enlighten me: wasn't it the previous Prime Minister, John Howard, who signed off on market recognition for China back in 2005? I did not see any comments from Senator Joyce at the time that decision was made.

**Senator JOYCE**—What month was that?

**Senator CAMERON**—It was back in April 2005.

**Senator JOYCE**—There is a good reason for that.

**Senator CAMERON**—But you did not—

**Senator JOYCE**—It is because I was not actually in parliament. That is the reason you did not hear from me: I was not in parliament.

**Senator CAMERON**—But you were an aspiring politician.

**CHAIR**—Senator Cameron and Senator Joyce, I do not want this discussion between senators across the table. Are there questions for the witnesses? Senator Joyce, do you have a question?

**Senator JOYCE**—The question to you is: when I was not in parliament, what didn't I say? You have to answer—

**Senator CAMERON**—No. You do not have to ask my questions.

**CHAIR**—No—and I will ask you not to be responsible for—

**Senator JOYCE**—You could be here for quite a while.

**Senator Sherry**—Senator Cameron, we believe that you are referring to the World Trade Organisation's recognition of China as a market economy, which was signed off by the former Howard government. But we will take it on notice and get some further detail for you.

**Senator CAMERON**—Thank you.

**Senator JOYCE**—My final question to the Foreign Investment Review Board is: is there any level of foreign ownership in Australia in certain markets that becomes excessive; and can you give any indication of what that might be?

**Mr Colmer**—Thank you. The whole issue around competition and market concentration is one that is covered off in the principles that the Treasurer enunciated in February 2008. Certainly it is something that we look at. Certainly it is something to which there is no simple one-size-fits-all answer. It is something that needs to be weighed up as part of the national interest considerations and it is something that we do weigh up while looking at the circumstances involved in a particular case.

**Senator Sherry**—Ultimately the decisions are made by the Treasurer and in some cases by me, when he delegates those decisions to me. The government has articulated a clear

approach as to the national interest. Investments need to be consistent with Australia's aim of maintaining a market based system, in which companies are responsive to shareholders and in which investment and sales decisions are driven by market forces rather than external strategic or political considerations. All cases are reviewed on their merits, depending on the circumstances of the case, against Australia's national interest. In fact, multiple cases are in the public domain where the Treasurer and/or I, delegated by the Treasurer, have approved stakes of over 50 per cent and, indeed, up to 100 per cent.

**Senator JOYCE**—With the emergence of China into a superpower—we are talking about the desire for it to emerge globally also in a more environmentally sustainable way—is there also an impetus in how we act to place pressure on how they act internationally? These state owned enterprises operating in Burma, if they are 100 per cent owned by the government of China, are the same as the state owned enterprises that, for all aspirational purposes, have a relationship to those operating in Australia, which are the same as those operating in Sudan. Is there an essence of at least wanting to move somehow on a general path of dealing with people in a more humane way?

**Senator Sherry**—You have raised quite a mix of issues there. We are dealing with foreign investment. I will take that on notice. If the Treasurer has anything to add to the mix of issues contained in your question, I will obtain a response. But I will take it on notice.

**CHAIR**—I think Senator Eggleston has questions.

**Senator EGGLESTON**—I have questions on the same subject. I note Senator Joyce's comments. But I also know that, since the 1890s, the Australian mining industry has depended on foreign investment. In the 1890s, it was British and American, when Britain and America were the big world powers, if you like. In the seventies and eighties in the Pilbara, it was British, American, Royal Dutch Shell and Japanese investment. Would it be fair to describe China's investment as just the latest of a series of major foreign investors who have come into the Australian mining market in particular because our capital resources are fairly shallow for these great projects to be financed and go ahead?

**Senator CAMERON**—Provided that you Libs will keep the Nationals under control in this.

**Mr Murphy**—That is right. Huge capital expenditures are needed and you need foreign investment.

**Senator Sherry**—I agree with your comments and I would observe that foreign investment supports around one in four Australian workers in the mining industry.

**Senator Sherry**—We can look at the recent FIRB report for 2007-08. I will briefly give you some facts. In 2007-08, the United States of America was, by a long distance, the largest source country for foreign investment; the US proposed inward investment of \$49.5 billion represented 26 per cent of total investment approved in Australia. Next were the United Kingdom, Germany, Singapore and Switzerland, with 17 per cent, seven per cent, six per cent and five per cent respectively. I think that puts into context the issues that are raised about the country's source of foreign investment in 2007-08. Yes, China is a significant investor and it is important, but the principal five countries of the world that invest in Australia are the five that I have outlined. I think that gives some context to this debate.



**Senator EGGLESTON**—What is the level of Indian investment in Australia at the moment? India is said to be the rising star in the world economy. It has replaced the United States as—

**Senator Sherry**—I do not have the figures and I am not sure whether the office has figures there.

**Mr Colmer**—I do not have any figures as such, but I can say that it is relatively small at the moment. We see the occasional one from India. I do not think India has invested enough to get into anything apart from the other category in our data, but we do see them on occasion. We think they may well be the next waves, but we will wait and see.

**Senator CAMERON**—It has been on your website.

**Senator EGGLESTON**—My last question is about the change in rules—

*Senator Cameron interjecting—*

**Senator EGGLESTON**—about the threshold levels—

*Senator Joyce interjecting—*

**Senator EGGLESTON**—which require disclosure—

*Senator Cameron interjecting—*

**Senator EGGLESTON**—of foreign investment—

*Senator Joyce interjecting—*

**Senator EGGLESTON**—which we presume—

*Senator Cameron interjecting—*

**Senator EGGLESTON**—was designed to prevent concealed foreign investment.

**CHAIR**—I am sorry, Senator Eggleston.

**Senator Sherry**—It is hard to hear.

**CHAIR**—Yes, I cannot hear.

**Senator CAMERON**—Madam Chair—

**CHAIR**—Senators Joyce and Cameron, if you want to have a conversation, please go outside. I cannot hear Senator Eggleston.

**Senator JOYCE**—Madam Chair, he is sitting beside you; just tap him on the shoulder and stop him.

**Senator CAMERON**—I apologise. I was just drawing Senator Joyce's—

**CHAIR**—No, Senator Cameron. Senator Eggleston, will you continue? I am sorry.

**Senator EGGLESTON**—I just asked about the new rules and thresholds for reporting or disclosure. Since those new thresholds were introduced, have we found some unexpected examples of larger investments, which have been made by particular countries, concealed under different companies' investments in particular projects?

**Mr Colmer**—I am sorry; I am not entirely clear as to what you are getting at. We recently raised the thresholds.

**Senator EGGLESTON**—But I thought there was a disclosure threshold that had been lowered so that, if from the one country there were several different companies investing in an Australian project, the aggregate could be seen, which may or may not exceed the current threshold required for reporting.

**Senator Sherry**—I think we might have to take that on notice.

**Senator EGGLESTON**—Yes, please take that on notice. We were given that impression during a recent inquiry into sovereign wealth fund investment in Australia.

**Mr Colmer**—I am not quite clear on what you are referring to there, but we will take that on notice. Just a month ago, we increased the basic threshold that was operating.

**Senator EGGLESTON**—Yes, I know that. I think there were two different increases or changes involved. Please take it on notice.

**Mr Colmer**—Yes.

**Senator LUDLAM**—I hope I am in the right place. I have two batches of questions for you. One relates to our OECD National Contact Point.

**Mr Murphy**—Yes, I am just looking at it now.

**Senator LUDLAM**—Can you outline for the committee, first of all, the office itself and its resources, as the office stands at the moment?

**Mr Colmer**—The Australian National Contact Point is a function that is an obligation on Australia as part of its membership of the OECD. The OECD sets out procedural guidance on the way that the Contact Point should operate; but, within that, there is a wide variety of structures and mechanisms around the world. The Australian National Contact Point is a function that is run out of my division in Treasury. The Contact Point has no specific dedicated resources, as such, but it has the resources of the division to deal with its work.

**Senator LUDLAM**—But you would not be able to quote back at me the number of FTEs with the National Contact Point.

**Mr Colmer**—No.

**Senator LUDLAM**—Is there any way of knowing, in equivalent terms, how much time people spend working within that subportfolio?

**Mr Colmer**—It is something that varies quite substantially. The current National Contact Point system, under the current OECD system, was revised in the year 2000. The Contact Point has two major roles. One is to promote the OECD guidelines for multinational enterprises and, through that process, a good corporate social responsibility. The second function of the Contact Point is to investigate complaints about the behaviour of individual companies in the context of those guidelines. Since 2000, there have been only four complaints raised with the Australian Contact Point. Those complaints tend to take intensive resources, compared with the other functions; but that does tend to be variable and it changes over time.

**Senator LUDLAM**—It is kind of demand driven.

**Mr Colmer**—It is demand driven.

**Senator LUDLAM**—I would imagine that, if you picked 100 random Australians and asked them whether they had ever heard of the National Contact Point, you would probably find that none of them had. How much time do you spend promoting the functions and the roles of that office?

**Mr Colmer**—We promote the role of the Contact Point through a variety of means—and, again, trying to put a figure on time is not terribly helpful. The guidelines operate on Australian companies operating overseas and they operate on foreign companies operating within Australia; it is the same arrangement all around the OECD. We have a variety of strategies. We hold consultations with interested parties. We have a website that is available and sets out the system. We work with embassy officials on their overseas placements so that they can provide information to Australian companies. We work with other government agencies, such as EFIC and DFAT. As part of the foreign investment process, we promote the guidelines to foreign investors operating in Australia. So there is a range of activities.

**Senator LUDLAM**—Let us just pause there. Where could I find a work plan, an annual report or some kind of summary of what that office is doing? Just give me one example: how much time do you spend liaising with the Australian mining industry operating overseas? Estimates, I suppose, is about establishing where you are allocating your resources, and I realise they are scarce. If this office has no staff, how do we know what it actually does?

**Mr Colmer**—The OECD puts out an annual report on the National Contact Point system. I think it is important to recognise that this is fundamentally an OECD function, which member countries contribute to. Around May of every year, we provide input to the annual report from the OECD—I do not believe that the last one is out yet—and then that is published as a consolidated document by the OECD probably towards the end of the year.

**Senator LUDLAM**—If I go to that, will I find a chapter on the performance of the Australian office—

**Mr Colmer**—Yes.

**Senator LUDLAM**—or is it aggregated as a whole?

**Mr Colmer**—Yes, you will.

**Senator LUDLAM**—Are you able to provide to us the last annual report or at least the section as it refers to Australia?

**Mr Colmer**—We can do that, yes.

**Senator LUDLAM**—Thank you; I would appreciate that. Are you concerned at all about potential conflicts of interest, given the location of the NCP, in an office which has as its core mandate the promotion of trade and business interests? Are you concerned about potential bias, or could you describe for us how that might be reduced?

**Mr Colmer**—I am not quite sure that there is any inherent conflict of interest. We deal with foreign investment proposals into Australia and we deal with a variety of other investment and trade related issues. But the reality of the Australian foreign investment

system is quite separate from the way that companies may or may not operate going forward throughout the course of their events.

**Senator LUDLAM**—I recognise that.

**Mr Colmer**—If you are suggesting that the fact we may have dealt with a company as a foreign investor leads to some sort of conflict should a complaint be raised against them, I am not quite sure that that holds.

**Senator LUDLAM**—Let me just put an example to you. When an Australian mining company proposes to develop a deposit in the Philippines or somewhere in the world, is the mining industry obliged to inform the host community that they have some rights of appeal and redress to the Australian National Contact Point? What is the degree of awareness that you are obliged to give host communities where Australian corporations are operating?

**Mr Colmer**—The guidelines do not work like that. The guidelines are something that governments, as members of the OECD, subscribe to. In that sense, the guidelines are obligatory for governments.

**Senator LUDLAM**—Do the guidelines suggest that communities be aware of what their rights might be?

**Mr Colmer**—Governments are required to promote the guidelines and companies are encouraged to follow the guidelines. But fundamentally, at the end of the day, what is usually much more important is domestic law, wherever the countries are operating.

**Senator LUDLAM**—Sometimes we are operating in some fairly weak governance zones—

**Mr Colmer**—That is right.

**Senator LUDLAM**—where mining law is not as sophisticated as it is here, with all its flaws.

**Mr Colmer**—That is right.

**Senator LUDLAM**—I think you are trying to tell me that there is no real obligation on either the companies or the government to inform host communities that they do have a point of contact in Australia, should they have grievances.

**Mr Colmer**—Yes. There is no obligation on mining companies, under a set of voluntary guidelines.

**Senator LUDLAM**—Do you think perhaps there should be? It surprises me a little. The Australian mining industry is involved occasionally in some pretty controversial actions and operations in various parts of the world in which it operates; I am not suggesting that it is everywhere, but certainly there are some pretty notorious cases. If the host communities have no idea that they have this avenue for redress, perhaps that is the reason that this office is getting by without any staff and has had only four cases to deal with.

**Mr Colmer**—You could make that suggestion, but I do not know that it is based on an understanding of the way that the system works. The way that the system works around the world is that, generally, complaints are raised by non-government organisations of various

forms on behalf of affected communities. I think it is fair to say that, in most developed countries, there are some fairly significant NGOs that are well aware of the guidelines.

**Senator LUDLAM**—Should it fall to the non-government sector to provide that degree of compliance and engagement, or should that be a role of the government or industry?

**Mr Colmer**—I am not sure of whether that is getting a little hypothetical.

**CHAIR**—Senator Ludlum, I think you are getting into policy areas as well. I think it is difficult. Mr Colmer is welcome to—

**Senator LUDLAM**—You are welcome to answer it, if you will. I did cross the line; I acknowledge that. You were going to provide some form of response, and that would be the finish.

**Mr Colmer**—I was just going to suggest that the Australian government, like all governments, regulates the operations of companies within its own borders. The guidelines are about trying to promote good corporate social responsibility practices outside of an individual country's borders. As a technical reality, there are limits to what individual governments can do in that circumstance. That is, I think, one of the key reasons why this system is a voluntary system. I think, as a technical matter, there would be quite serious issues to be dealt with in trying to make it a compulsory system.

**Senator LUDLAM**—We might explore those further in future sessions, but I think we are probably a bit short of time. Another issue I want to ask you about briefly is human rights in the mining industry specifically, so we will be in some of the same areas where we are here. Can you tell me what the government has done or plans to do, either through the National Contact Point or other agencies or instruments, to encourage Australian companies to respect the rights of members of the communities in which they operate—this is human rights more broadly—and to develop rights compliant grievance mechanisms, regardless of whether the companies act in Australia or overseas?

**Mr Colmer**—I think that goes to a lot of the discussion that we have just had and I am not sure that I can add anything more on the Contact Point's arrangement. There is, however, a more general approach to human rights and corporate social responsibility in Australia. I do not think we have anyone from the Human Rights Commission here, but perhaps my colleague—

**Senator Sherry**—I do think this is a bit like the discussion we had earlier with Senator Joyce: we are now broadening out to well beyond the direct responsibilities of FIRB.

**Senator LUDLAM**—I am happy to stay well within—

**Senator Sherry**—It is a legitimate issue, but I am pretty sure that this is not the place to raise it.

**Senator LUDLAM**—My intention is to stay very much within the confines of this portfolio because I am interested in what is happening here. For example, has your minister ever made a speech to the mining industry or its representative bodies on human rights obligations in receiving communities?

**Senator Sherry**—I think I would have to take that on notice, because I do not know that Mr Colmer would be aware—

**Senator LUDLAM**—You do not have every speech locked up in—

**Senator Sherry**—of the Treasurer's speeches. As much as I read all of them, I am not sure that Mr Colmer does, so I think it is a little unfair to ask Mr Colmer. Personally, when I had my previous responsibilities, I made a number of speeches, for example, on corporate social responsibilities and socially responsible investment in a number of contexts, and those speeches are on my website. As for the Treasurer, I would have to take that on notice.

**Senator LUDLAM**—All right then. Because it sounds as though you are not going to be in a position to give us much specific detail here, just to flesh out the question perhaps you could provide a summary for us, perhaps over the last 12 months or so, of what the government has done but within this portfolio particularly—we are putting these questions elsewhere as well—and what it plans to do to support developments at the international level of standards and mechanisms aimed at ensuring that business respects human rights, whether in the context of Australian operators or more broadly.

**Senator Sherry**—Yes. Perhaps I could give you two other quick examples I am familiar with. The government has funded the St James Ethics Centre—again that was in a previous ministerial capacity.

**Mr Miller**—I have details.

**Senator Sherry**—We have details.

**Senator LUDLAM**—We concede that, yes.

**Senator Sherry**—We can provide that. Given the time, probably we can give you some additional information on notice. I am also a ministerial representative to the Asian Development Bank. Again, the Asian Development Bank, as part of its remit, places some focus on responsible investment in particular projects that it may become involved in. So there are examples. I appreciate your putting this on notice—

**Senator LUDLAM**—Yes. I do not expect you to—

**Senator Sherry**—in all estimates. I can provide a lot more detail and we will give you some of that.

**Senator LUDLAM**—Thank you. The last question, while we have these officers at the table—so it is addressed specifically to your area—is: can you update us on the state of play as to whether the Foreign Investment Review Board does have a number of criteria that it benchmarks foreign investment decisions in Australia against? We spoke about this, I think, in the previous round of estimates, in the context of a mine in Western Australia. Are there any proposals, moves afoot or work that you are doing to strengthen the standards that we would apply to foreign investment in Australia, for example, looking at human rights performance in other parts of the world?

**Mr Colmer**—I am sorry; I missed the last few words there. Is that question about human rights performance of mining in Australia?

**Senator LUDLAM**—No. For example, if a company wanted to invest in Australia and they are clearly operating outside the bounds of good corporate behaviour elsewhere—

**Mr Colmer**—I would have to query that because, with the particular case that you raised, you made the allegation that they were operating outside of the bounds of normal human rights. When we investigated that case, the mine that you were complaining about had not even been established.

**Senator LUDLAM**—No, there are two. There is one that has not been established. The company that I referred to—and I was not going to take you on with this particular example—currently operates the largest nickel mine in Burma. I am not asking for a defence of the Burmese regime here. I am referring to that being a particular part of FIRB's test and I am wondering whether there are any moves to strengthen it, for example, in the domain of human rights performance elsewhere.

**Senator Sherry**—That would constitute advice to the government. The government has made a number of announcements in recent times on changes to its approach; it has articulated that. So I would have to take that on notice.

**Senator LUDLAM**—Okay—as to whether any advice has been provided either way: whether the government has made any requests of FIRB, or whether you have provided any advice back the other way.

**Senator Sherry**—Yes, I will take that on notice.

**Senator LUDLAM**—Thank you very much. I will leave it there.

**CHAIR**—Finally, I think there are no more questions for the Markets Group of Treasury. Thank you for coming in today. I now call the Australian Prudential Regulation Authority.

[4.57 pm]

#### **Australian Prudential Regulation Authority**

**CHAIR**—We welcome the Australian Prudential Regulation Authority. Dr Laker, would you like to make an opening statement?

**Dr Laker**—Yes, thank you, Chair. For the first time since I have appeared before this committee with you as the chair, the view is clearly firming that the worst of the global financial crisis is behind us. In Australia, the most compelling support for this view was the decision of the Reserve Bank of Australia two weeks ago to begin gradually unwinding the very expansionary setting of monetary policy. That decision was taken against the background of a recovery in consumer and business confidence and of a domestic economy that has proven its resilience. Indeed, Australia is likely to be the only advanced economy to record positive growth over 2009.

Globally, economic conditions have begun to improve, and the worrying pattern we have seen since the crisis began of continued and at times sharp downward revisions of global growth forecasts is now giving way to upward revisions, particularly for 2010. The recovery is uneven, however, with growth in the advanced economies likely to be relatively weak but growth in our Asian trading partners more robust. Reflecting these encouraging prospects and the return of investor confidence, conditions in global credit markets have improved

significantly. Risk spreads are narrowing and, at the short end at least, have regained their 2007 levels. Securitisation markets are showing early signs of a thaw. Financial institutions in a number of jurisdictions are beginning to wean themselves off the various public support arrangements introduced during the traumatic events of September and October last year. Last month, for example, almost half of the total bonds issued by Australian banks were unguaranteed. Global and domestic equity markets have also rebounded from their depths earlier this year

This is a positive report card, and there is an important contributing factor in Australia's case that needs acknowledgement. Throughout the global financial crisis, the Australian banking system has been able to support economic growth and it has not acted, as in many other countries, as a dragging anchor. For all that, we in APRA are not ready to scale back the level of our supervisory intensity. The operating environment for APRA regulated institutions is still clouded by uncertainties. As the Reserve Bank has noted, downside risks to the domestic economy, though they have diminished significantly over recent months, cannot be ruled out. The global recovery is not yet firmly established and the balance sheets of many major global financial institutions are still burdened by poor-quality assets. Unexpected setbacks could again jolt market sentiment. If these uncertainties pass and the operating environment continues to improve over coming months, APRA regulated institutions will face another challenge. In the words of the G20 leaders' statement in Pittsburgh last month, 'A sense of normalcy should not lead to complacency.'

APRA's supervisory attention is still most sharply focused on our authorised deposit taking institutions, ADIs—banks, building societies and credit unions. Credit quality problems have broadened in Australia's economic downturn, but asset quality remains solid overall. Mortgage lending portfolios in particular continue to show their soundness, with nonperforming loan ratios at around one-quarter of the comparable ratio for UK banks and one-tenth of that for US banks. The quality of mortgage lending portfolios would, of course, be tested if unemployment were to rise significantly from current levels. That prospect is looking much less likely, but the issue remains on our radar. In general, the ADI industry continues to be profitable and well capitalised, and the larger institutions have enjoyed strong investor support. The other industries we supervise have been less affected by recent cyclical developments. Obviously, the life insurance and superannuation industries have received a fillip from the rebound in global and domestic equity markets. The financial position of the general insurance industry remains sound overall, despite a series of severe weather related events.

The global reform process continues apace. When we met in June, I mentioned that APRA had been invited to join the Basel Committee on Banking Supervision, the global standard-setting body for banking regulation. I have now attended my first two Basel committee meetings and I can certainly attest to the considerable volume of work underway in the committee and its numerous working groups to strengthen regulation, supervision and risk management in banking systems. Early fruits from that work have been a toughening of the Basel II capital requirements for securitisation and trading book activities announced in July. The Basel committee is now finalising a broader package of measures aimed at raising the quality, consistency and transparency of capital and banking systems; discouraging excessive



leverage; and introducing a framework for counter-cyclical capital buffers. The Basel committee will issue concrete proposals on this broader reform package by the end of this year and will carry out an impact assessment in the first half of next year. APRA is participating fully in this reform process.

In addition to this work on capital, APRA has taken significant steps in two other major reform initiatives since we last met. In September, we released a consultation package on our proposed enhancements to the prudential framework for ADI liquidity risk management. A major lesson from the global financial crisis was that a number of global banking institutions did not accurately identify and appropriately manage their potential liquidity risks. The Basel committee has been promoting the development of stronger liquidity buffers in the global financial system, and it has issued revised principles for sound liquidity risk management.

APRA's proposals translate these principles into our prudential framework. Our aim is to strengthen the stress testing of ADIs' risk management systems for liquidity and to improve our reporting framework. Our intention is to finalise the proposals in the first half of 2010, subject to industry feedback and international supervisory developments.

Also in September, APRA released a second consultation package on remuneration for ADIs and general and life insurance companies. We have been consulting widely, including through two well-attended industry seminars, since we released our first consultation package in May and we have been reviewing the large number of submissions we received on that package. For the most part, the submissions have supported APRA's proposed principles based approach to encourage alignment of remuneration practices with prudent risk taking. The second consultation package maintains that approach but involves amendments to details and drafting to ensure that our proposals are better understood.

APRA's proposals on remuneration will be implemented through extensions to its existing governance standards and through a prudential practice guide. These are expected to be effective from 1 April 2010. In finalising its proposals, APRA will be taking into account the Financial Stability Board's recently released implementation standards, which are aimed at strengthening adherence to its *Principles for Sound Compensation Practices*, issued in April this year.

Finally, I would like to draw to the committee's attention that in September APRA published the results of its first stakeholder survey. This survey, which was foreshadowed in APRA's service charter, was undertaken by an independent survey research company to assist our understanding of the impact of our prudential framework and the effectiveness of our supervision. According to the company, the overall survey results were a strong endorsement of our framework and approach. On that positive note, we are now happy to take the committee's questions.

**CHAIR**—Thank you, Dr Laker. Senator Eggleston.

**Senator EGGLESTON**—Thank you. I am very interested in the work of the Basel committee.

**Dr Laker**—So are we.

**Senator EGGLESTON**—You mentioned it before, but could you perhaps tell the committee a little more about its overall functions and its role? It obviously sets guidelines, I presume, which are voluntarily adhered to; but how close is it to various governments and what powers, if any, does it have to regulate?

**Dr Laker**—The committee itself has no powers, as such, to regulate. It is a body that brings together central banks and supervisory agencies around the table to develop global standards. Those global standards initially took the form of what was called the Basel Capital Accord, which was introduced in 1988. More recently, that accord was substantially enhanced and introduced as the Basel II Framework, which we implemented in Australia from the beginning of last year. These are global standards for capital. They also at the moment are developing global standards for liquidity. In addition, the Basel committee addresses a whole range of other risk areas to which banks globally are subject.

The standards are standards; they are not set down in any global legislation. It is the responsibility of domestic authorities then to introduce them in a way which, on the one hand, meets the requirement for a global set of rules for a global banking world and, on the other hand, takes into account the circumstances of particular countries. So, taking the Basel II Framework, for example, we consulted very extensively on that before it was introduced in Australia and we exercised some national discretions, when we felt it was in Australia's best interests to do so. However, in principle, we were committed to a global framework in Australia.

**Senator EGGLESTON**—So the Basel group committee is composed of central banks. Do the countries concerned very largely adhere to or accept the advice of the Basel committee?

**Dr Laker**—They very largely implement the global standards, yes.

**Senator EGGLESTON**—Is the distribution of its committee members across the whole globe, including obviously North America and Europe but also the Caribbean, Africa and Asia as well as Australasia?

**Dr Laker**—It is not as broad as that. The composition of the Basel committee was expanded recently to embrace all G20 countries. In addition, representatives from the IMF and the European Commission attend the meetings. But essentially it is the G20 central banks and supervisory agencies.

**Senator EGGLESTON**—I know that Senator Cameron will want to ask you about remuneration package reports, so I might leave that line of questioning to him.

**CHAIR**—Senator Bushby.

**Senator BUSHBY**—Thank you. Thank you for coming along this evening. I have a couple of follow-ups from answers to questions on notice that we have received. I think at the last estimates I asked about default funds specified in modern awards and the fees that apply to that. In response, you noted that you do not collect data to a level that would enable you to answer that question. But you noted that, in May 2009, APRA released a discussion paper on enhancing its superannuation statistical collections and publications, and we had a discussion about that at the last estimates. Responses to that discussion paper were due on 22 June 2009 and have since been considered to some extent, with a view to conducting a further round of

consultation on proposed forms and publication content later in the year. Can you give me an update on where we are at with that now?

**Dr Laker**—The deputy chairman can do that for you.

**Mr Jones**—The process there is that it has been amended slightly because of the Cooper inquiry into superannuation; the Cooper inquiry is also looking at enhanced statistical collections. So, rather than be at cross-purposes, we have decided to provide further information into the inquiry. This is the second part of their phased inquiry. The enhanced superannuation statistics will look at the types of information that APRA would use but also broader information that would be more available to the industry, looking at various types of collections.

**Senator BUSHBY**—How does APRA currently gather the information that it gets?

**Mr Jones**—There are certain required statistical publications whereby each entity is required to supply information to us.

**Senator BUSHBY**—Is that an APRA regulation?

**Mr Jones**—Yes.

**Senator BUSHBY**—So Cooper is looking at its statistical collection review, including what you already do. Is there the potential that they may recommend a greater collection? You mentioned that there may well be information that they collect that they deem advisable to collect, which goes beyond what you would be looking to collect.

**Mr Jones**—Yes. I mean—

**Senator BUSHBY**—What I am getting at is: where could this end up, in terms of the demands placed on super funds? Obviously, it is a very good thing to have useful information. But if you have a need for information to suit the prudential regulation of super funds that you are charged with and other aspects of government are also grabbing information as well, how onerous is this going to be on the funds?

**Mr Jones**—I do not think it is particularly onerous on the funds, in the sense that quite often the funds collect a lot of this information themselves. In fact, one of the things that we found earlier this year was that the funds were supporting greater publication of APRA statistics and greater disaggregation than we were currently producing.

**Senator BUSHBY**—I know certainly that some of them are very keen on greater disaggregation—

**Mr Jones**—Exactly.

**Senator BUSHBY**—so that a more detailed comparison between performances can be made and for other reasons as well.

**Mr Jones**—Yes.

**Senator BUSHBY**—But just taking it off APRA, who I feel are very comfortable having a look at it, and working your way up and putting it into the Cooper review, it sort of opens up the door to more obligations perhaps being placed on them than they were talking about earlier this year.

**Mr Jones**—I think it also will depend upon the nature of the submissions that come from the various industry associations, in terms of the type of information that they believe would be appropriate.

**Senator BUSHBY**—What impact will that have on the timeliness of improving statistical collection? You are well underway, I would—

**Mr Jones**—Yes. We contemplated starting the new statistical collection from 1 July 2010. But, as a consequence of the inquiry and the submissions that have been provided to the inquiry by the various industry associations, funds and so on, we would expect that new collection to start the following year rather than in 2010. The industry had already suggested to us in our consultation—which you have referred to earlier—which we were doing through May to more recently, that they would find it possibly very tight to start with the new collection on 1 July 2010, so that seemed to be something that would probably be acceptable to most.

**Senator BUSHBY**—Despite the fact that you have just indicated that most of them have that information and it is relatively easy to put together.

**Mr Jones**—They have most of the information that is relevant in terms of the types of disaggregation that I was talking about before. But information about costs is often collected by funds in different ways; therefore, to get greater consistency in terms of costs, new systems may be required.

**Senator BUSHBY**—Are you able to indicate the level of resources that was devoted to your work to improve statistical collection prior to it going over to the Cooper review?

**Mr Jones**—I am sorry; the amount of?

**Senator BUSHBY**—Basically, a value on the resources that you put into or the work that you conducted for the Cooper review before it went over to be looked at by that review.

**Mr Jones**—We had begun a process whereby we had gone out for consultation. We have a small superannuation statistics staff and they had begun a consultation process. We also have people seconded to the Cooper inquiry. So it is fairly simple to provide information that has already been collected.

**Senator BUSHBY**—Would you have handed over to the Cooper review the consultation work that you had done already?

**Mr Jones**—Yes. Of course, the submissions to us are of the types that are likely to be provided by the same associations to the Cooper inquiry but perhaps would be broader again.

**Senator BUSHBY**—Have you provided copies of those submissions to the Cooper inquiry?

**Mr Jones**—We have not done so at this stage, because they have not requested the exact submissions; but we certainly will supply them with whatever they ask for. We have certainly had consultation with the Cooper inquiry in terms of the type of information we already have, so there is no need for duplication.

**Senator BUSHBY**—That is what I am really hoping for: minimum duplication from both your perspective and also the funds' perspective.

**Mr Jones**—For sure, yes.

**Senator BUSHBY**—If the Cooper review's remit in terms of statistical data collection is broader than yours, I imagine they may well have to do a new one or at least a supplementary to address the other issues. Last time I asked for and you gave me on notice an update on the total loss or gain attributable to Australia's superannuation funds to date for the previous four quarters in the most recent financial year. Since then, a few months have passed and there may well have been another quarter. Perhaps you could provide an update on that. I just flag that I will probably ask you this every time you appear before me, just to get the most recent updated figures as we go.

**Mr Jones**—Can do.

**Senator BUSHBY**—I do not know whether you have that here. Dr Laker mentioned in his opening statement that you had put out, I think, draft APS 210, which addresses the type of liquidity that ADIs are or may be required to hold in terms of maintaining their liquidity buffers. I asked this earlier of Treasury: it has been put to me that the draft proposal itself is causing consternation, certainly in some sectors of the market, in the sense that an unwillingness is being experienced already by some ADIs to invest in each other's bonds in case this proposed standard is adopted. So it is already having an effect in advance of becoming a requirement. Would you like to comment on that?

**Dr Laker**—There is a long background to putting out those proposals when we did. We began that work before the financial crisis struck because we were keen to understand whether the framework we had had in place for some time was still relevant to global financial markets as they were in 2006 and 2007. We clearly had to suspend some of that work because we needed our staff to do other tasks during the crisis. But we have been working with industry throughout the period before these proposals were put forward. We have been and are continuing to consult—and they are proposals and not a final decision. We have been keen to ensure that our ADIs have liquidity risk management frameworks that will cope with greater stress than they were required to meet in our earlier standard—which was not, we deemed, sufficiently testing—and to take into account the possibility, the reality now, that markets can be dislocated for a long period of time. We need a robust framework for liquidity risk management in Australia because, as we know, our major institutions are reliant, perhaps more than any other retail type banking institutions, on offshore wholesale markets. That is just the reality of our marketplace.

Running parallel to this is work that now is being done in the Basel committee in response to the leaders of the G20. We acknowledged that that work is underway when we put out our consultation paper and we said that we need to have regard to the sorts of global standards that may evolve from the Basel committee's work—and remember that they are responding to a very clear mandate from the leaders of the G20. One of the issues that the Basel committee is addressing is: what constitutes a highly liquid asset? We have not finalised our view on this. We have said that the global thinking is to take a pretty strict view of what is a high-quality liquid asset; this is in light of the experience of the global financial crisis, where many assets that were thought to be liquid lost their liquidity overnight.

However, in Australia's case, we have a unique set of circumstances in that we have had virtuous governments for a long period of time and have not been generating large volumes of sovereign debt, which many other markets have generated and which provide these high-quality liquid assets. So we have said to industry, 'Look, there's a global development that may lead in this direction but no decisions have been taken domestically that would raise issues for us,' and we are talking to the industry about how we can reconcile those two developments. That is where we are at the moment.

**Senator BUSHBY**—Your comments have raised a number of issues in my mind, some of which I will remember as I ask you questions and some I will not.

**Dr Laker**—You can happily make a submission on this topic, if you like. We are in the consultation phase.

**Senator BUSHBY**—Yes, I may well.

**Dr Laker**—But that particular point you raised about an unwillingness of bank A to invest in bank B paper has not come to my attention; it may be something that they are thinking about.

**Senator BUSHBY**—It certainly has been raised with me recently. In the general sense, with what you are talking about with the Basel committee and what it is looking at, as you correctly note, we are in a unique situation in Australia for a number of reasons, one of which is that we do not tend to issue or certainly in recent times have not issued the same level of government debt that is seen in other places. That may well have a consequence on the ability of ADIs, I would have thought, to cover their entire liquidity with domestic sovereign bonds. Has any analysis been undertaken to ensure that there are sufficient domestic government bonds to be able to cover that without having to go to foreign markets?

**Dr Laker**—You prejudge the outcome of the consultation processes there. Certainly it is quite clear from a back of the envelope calculation that if the definition were as strict as that, there would be a question about how you would be able to meet that within the availability of Commonwealth government securities in Australia. That is why we have put that question back to industry, saying, 'How do we reconcile that?' But I think the other issue we also have to bear in mind is why the Basel committee is looking very hard at this question because, in many markets and in major markets for long periods of time, one bank's claim on another bank lost its liquidity very quickly because all banks lost investor confidence. So, as we have seen, there is a balance that we need to strike in Australia between the way our market works and the global requirement for much stronger liquidity management. I think the other point I would add is that, whatever we in APRA may in the end decide, the market itself may well do its own judgements and impose the requirements or at least assess Australian banks against those requirements. So we are not operating in an entire vacuum here.

**Senator BUSHBY**—I understand; this is in an open economy, as we discussed with the macro section last night. But, in terms of striking that balance, one of the dangers, of which I am sure you are fully aware, is that the rest of the world taking action to address problems that they had—to ensure that those problems are not likely to occur again—may impact on Australia in ways that are undesirable for our markets, where we did not have those problems because we were regulating for all sorts of other structural reasons. I am sure that is

something of which you are aware, when looking at that balance and trying to avoid problems in the process of seeing how we fit in with the rest of the world.

**Dr Laker**—Very much so. That is why we consult quite extensively before we finalise standards. It is quite clear that the global regulatory framework for banking needed and needs repair. It is what the leaders of the G20 have committed all of us to and on a pretty tight timetable, so a lot of work is underway. I have said publicly that Australian banks and other ADIs will benefit from a more robust global financial system; that is the marketplace in which they operate. But we need to be careful about the sum total of the impacts of all the various initiatives. The Basel committee is very mindful of this question as well. That is why it will do a comprehensive impact assessment in the early part of next year, which will draw the various strands of work together and look at how they would impact on the safety of banks, on the intermediation process and on market efficiency, before any final calibrations are done. We will certainly be active in that process.

**Senator BUSHBY**—That is good. Has any consideration been given to recognising triple-A rated RMBS as liquid securities as part of a liquidity portfolio?

**Dr Laker**—We have been talking to industry about how they would assess assets for liquidity purposes. The difficulty in putting that argument forward is the behaviour of the RMBS market in the last couple of years; that market lost liquidity and has been dormant for the better part of two years. If one looks at the behaviour of that market through that time, it is not immediately obvious that it meets a liquidity test. But, as I say, we are talking to industry about all of those sorts of issues, so I rule nothing out or nothing in. But high-quality liquid assets mean something that is readily tradeable in private markets. So we have to impose that test on it; that is the way we will go.

**Senator BUSHBY**—Yes. Despite the fact that in Australia RMBS has been very secure, it has not been highly tradeable in recent times; I acknowledge that.

**Dr Laker**—Unfortunately, in a sense, all securitisation markets have been tarred with the same brush. Those markets have been dormant really until the last couple of months, but we are now starting to see some encouraging signs. Mr Littrell might want to add to what I have just said. But we still have to apply a test of how readily an institution can access liquid funds, if it needs to.

**Senator BUSHBY**—I understand. You have very clear responsibilities in terms of what you are trying to achieve. I asked that question of Treasury earlier as well. They have a broader remit and also have to look at issues such as how to promote the securitisation market itself and getting that back on board.

**Dr Laker**—We understand that.

**Senator BUSHBY**—So, from your perspective, I understand that it does not serve your purposes but it may well serve other purposes that are desirable.

**Dr Laker**—I might add that when we are looking at liquidity risk management frameworks we are looking at both sides of the balance sheet, not just at what volume of liquid assets an ADI is holding but at what the demand is that is coming from the maturing of its liabilities. The Basel committee is looking at this also. We need to focus on both sides. The

longer a bank stretches out its maturities, the less immediate need it has each month to roll over. That is part of this consideration that we have with industry at the moment. I think Mr Littrell is going to add something here.

**Mr Littrell**—Perhaps I could just clarify a few points in your questions. One is that in the draft proposals we do, in fact, give de facto credit for triple-A RMBS. There is a one-month survival requirement and a three-month survival requirement. There is substantial credit given towards the end of the three-month survival credit for RMBS now. The issue in the short-term survival test is that it is not whether ultimately the bond will pay off; it is whether you can sell it to someone else for close to face value, and that is quite problematic.

The second point to make is that, in terms of the industry's positioning on this issue, they conveniently forget that the government had to issue a systemic guarantee late last year, which is rather strongly indicative of the fact that the industry's liquidity arrangements were insufficient. Before the Basel committee started this work, APRA had in train a program of work because we had already identified that Australia was relatively exposed on this front. The fact is that it is an area that needs to be strengthened. It will cost the banks some money in operating terms to come up with better reporting systems and it will cost them money in terms of reorganising their balance sheet. But, as we optimise the parameters of the stress test and other requirements, we are trying to get a nice balance between a relatively low cost and a quite substantial improvement in, if you will, the national insulation from the 'kindness of strangers' in relying on offshore wholesale markets. Our current test says that we have a five-day cushion between the rest of the world losing confidence in a bank or the banking system and government intervention.

**Senator BUSHBY**—That is in Australia?

**Mr Littrell**—This is in Australia, and that would be fairly typical. Where we are headed is to a 30-day and a 90-day test, which is very much more robust. Events have taught us that we need to be very much more robust. Yes, there are costs associated with this, but we feel that we will have a quite good handle on those costs as we move through the process. The fact is that this work needs to be done.

**Senator BUSHBY**—Earlier in that statement you made the comment that the reason why the guarantees—probably both of them—were reintroduced was because, essentially, the liquidity held is not sufficient; inherent in that was the need to put in place those guarantees. During the bank guarantee inquiry, we had evidence from Treasury. I do not want to misquote them but, to the best of my memory, when asked what was the contingent liability of the government by providing the guarantees, they made a statement something along the lines of your not being able to quantify it but there was no risk to the Australian taxpayer because, if one ever fell over, the liquidity requirements of the banks would cover it. As I say, I might be slightly misquoting, but generally that was the thrust of what they were saying. Is that an accurate statement in the context of what you have just said?

**Mr Littrell**—I think we might be confusing our risk here. The banks were not at risk of bankruptcy at that point; they had equity.

**Senator BUSHBY**—Yes.



**Mr Littrell**—The reason the guarantee was put into place was not to shore up banks that were short of capital; it was to ensure that they would have enough operating cash as this crisis unfolded globally. I did not see the Treasury statement, so I cannot quote it exactly. But a statement saying that the Australian banks that were the beneficiaries of the guarantee were very safe is true.

**Senator BUSHBY**—To clarify your earlier statement then, you were saying that the introduction of the guarantees highlighted that they had liquidity issues in terms of their operating cash rather than their—

**Mr Littrell**—Yes.

**Senator BUSHBY**—Okay; that is fine.

**Dr Laker**—The purpose of the guarantee—we have discussed this in the committee on a number of occasions—was to assure access to global capital markets in the face of other jurisdictions which had provided—

**Senator BUSHBY**—I misinterpreted what Mr Littrell said earlier, in terms of the intent of what he was saying. It was my misinterpretation.

**Dr Laker**—It was about access, yes.

**Senator BUSHBY**—How do IOSCO recommendations on securitisation fit in with the Basel committee? Obviously they are separate but, in broad terms, they impact on the overall remit that you have in what you are looking at. Are you any part of the IOSCO process?

**Dr Laker**—No.

**Senator BUSHBY**—Treasury work with that.

**Dr Laker**—ASIC is involved with IOSCO.

**Senator BUSHBY**—Do you have any dealings with that in terms of the securitisation rules?

**Mr Littrell**—We are aware of that. We, ASIC, the RBA and Treasury maintain quite close contacts. It would be fair to say that we are not working on that issue but we are reasonably up to speed on what ASIC is doing on it.

**Senator BUSHBY**—I was going to ask similar questions about how the recommendations that IOSCO are putting out, as they apply in Australian markets like the securitisation market, may impact on our markets, given that they may well be designed to address the mischief that we never really had here. However, I will move on from there, since you are not directly involved with that. I will move to performance tables in relation to the super performance league table: were the performance tables published for prudential supervision purposes or to provide consumers with useful information? What is the underlying reason for publishing those tables?

**Mr Jones**—We publish a lot of statistical publications at entity level; in superannuation, this was the first time that we had published at entity level. But the primary purpose is to get a measure of trustee performance. It is fairly important for trustees to have a good understanding of their performance over the longer term because they are required to be acting in the best interests of members and a very effective measure of performance is the

long-term rate of return. With our publication, unlike a lot of industry publications that use quarterly information—you quite often see, I think even in the past couple of days, a lot of information coming out for a particular quarter—we looked at the performance of funds over a five-year period.

**Senator BUSHBY**—You say that the primary purpose for it is to acquit the trustees. In that case, why is it made public?

**Mr Jones**—Why is it made public?

**Senator BUSHBY**—Yes. If it is for the benefit of the trustees so that they can accurately assess in a relative sense, I presume, the performance of the funds they are looking after, why is it made public and not just provided to the trustees?

**Mr Jones**—Do you mean, why didn't we just provide it to every single trustee?

**Senator BUSHBY**—Yes. I was asking the purpose for it. Why is it put together? You indicated that the primary reason was for the benefit of the trustees so that they could gauge how their funds were performing. I am trying to get to: what is the purpose of making it public then, if it is for the trustees' benefit?

**Mr Jones**—So that the trustees can see relative performance. It is very useful for industry and the trustees to look at performance over a long period of time. This is no different to the provision of information that is provided in other industries. It is simply that this was the first time we had done this.

**Senator BUSHBY**—Is it the intention to also provide information for the use of consumers?

**Mr Jones**—No. This is not meant to be a consumer publication. This is not designed to enable consumers to make particular decisions; that was not the purpose of these statistics at all.

**Senator BUSHBY**—But, by making it publicly available, it is inevitable that it will be used for that.

**Mr Jones**—I do not necessarily think so. I do not think there are many consumers who will look up hundreds of pages of APRA statistics to make financial decisions. Generally speaking, people who are using the statistics may be using a financial planner.

**Senator BUSHBY**—But trustees or managers of funds may well use that to try to convince consumers of certain things.

**Mr Jones**—They may well do—and this is not to say that there is anything wrong with the statistics. These are very useful statistics of trustee performance. They show how effective trustees have been over a very long period of time in making decisions that are in the best interests of their members. That process is related to the rate of return over a five-year period.

**Senator BUSHBY**—Can you tell me where else in the world prudential regulators publish investment performance statistics for individual firms that they regulate?

**Mr Jones**—I can take that on notice, but there are a number of countries that do so: quite a few countries in Europe and quite a few countries in South America. I can probably provide a list of the countries.

**Senator BUSHBY**—If you could, that would be good—and also what statistics they publish, including their tables.

**Mr Jones**—There are some countries that provide daily information.

**Senator BUSHBY**—If you could let me know that, that would be great. Could APRA also advise which private sector providers publish superannuation league tables on investment performance; how they collect their data; and what is the cost, if any, of their service to the taxpayer?

**Mr Jones**—I am not sure that we would be able to provide you with information about the cost of their service.

**Senator BUSHBY**—To the maximum extent that you are able to, on the basis of the information that you have.

**Mr Jones**—I am sorry? The information that we have on the cost of private sector providers in providing their services?

**Senator BUSHBY**—No. The primary question is: which private sector providers publish superannuation league tables on investment performance—

**Mr Jones**—Okay, we can provide that.

**Senator BUSHBY**—and how they collect their data. Then, if you have any information on costs, that would be great; if not, that is fine.

**Mr Jones**—On their costs?

**Senator BUSHBY**—Yes.

**Mr Jones**—Okay.

**Senator BUSHBY**—What advice and/or direction has the government provided to APRA regarding the publication of superannuation fund trustee-level data?

**Mr Jones**—The former minister, who is sitting next to me, wrote to APRA. However, APRA had already begun a process of publishing disaggregated statistics. This process began about 12 months ago. We held a seminar with one of the universities—I think it was the University of New South Wales—and there was a lot of interest in publication of disaggregated statistics. That was the beginning of it. There was a lot of interest from the superannuation industry for the publication of disaggregated statistics. Then, subsequent to that, there was a request from the minister. That is the process that continued until the publication, which occurred I think in about August of this year.

**Senator Sherry**—I can confirm that I made such a request.

**Senator BUSHBY**—I think you might have mentioned that to some extent in the previous estimates.

**Senator Sherry**—I have mentioned it publicly. In fact, I have been very emphatic in my commentary around this matter up until June.

**Senator BUSHBY**—Has any additional funding been provided to APRA to facilitate the publication of superannuation fund trustee-level data?

**Mr Jones**—No. We always had that funded.

**Senator BUSHBY**—But, in terms of putting it together as a table, have you received any additional funding?

**Mr Jones**—No, none at all.

**Senator BUSHBY**—Is it particularly resource intensive in any way?

**Mr Jones**—Every statistical publication is resource intensive in the sense of checking the accuracy. In these circumstances, it required us to go back and make absolutely certain that we had the accuracy. We went back to every fund and asked each of them to check the information that they had supplied to APRA, to make sure that, in fact, when we were publishing this stuff, the information they had supplied to us originally was accurate. That process takes some time, but it is not particularly excessive in terms of the standard statistical publication.

**Senator BUSHBY**—Did you have a team of people working on it?

**Mr Jones**—I am sure we did.

**Senator BUSHBY**—How many people were working on it?

**Mr Jones**—I am not quite certain. Charles Littrell, who is in charge of the department, may be able to talk about how many people were working on it at any particular time, but it would vary according to what comes in from different institutions at different times.

**Mr Littrell**—As a rough estimate, the team in question for all statistical duties averages about nine people. Two or three people equivalents would have been spread over that team working on that publication for six to eight months.

**Senator BUSHBY**—Six to eight months.

**Mr Littrell**—Yes. Now that it is up, it is much less time intensive to repeat. The effort was not so much on the numbers, which were already in the APRA database—we had produced similar publications in house before—but, as Mr Jones said, going back through and checking with all the trustees and also going through a process of ensuring that the data could be released in a public forum without violating confidentiality. So there were, as I said, two or three people equivalent for several months to go through that process. But, once it is done, you do not have to repeat it; it is in-house then.

**Senator BUSHBY**—Yes, it will be a simpler process from now on; I understand that.

**Mr Littrell**—Yes.

**Senator BUSHBY**—But were those two or three people employed with APRA already or did you have to add staff?

**Mr Littrell**—There are already a number of publications and collections that come out of that team and they fitted this work in around what they were doing at the time.

**Senator BUSHBY**—So they fitted the work in around it. Did it have any impact on other work that you were doing? Did you have to prioritise other demands?

**Mr Littrell**—Yes. The new publication was somewhat later than it will be in the normal production cycle because all the other regular publications and collections have priority. So, essentially, this was the swing work that we did in incremental time.

**Senator BUSHBY**—Did you manage to fit it in without impacting on any other aspects of APRA's responsibilities or delaying anything else?

**Mr Littrell**—The regular collection and publication suite went ahead without impairment.

**Senator BUSHBY**—What would be the cost to APRA of fast-tracking a system to collect superannuation fund performance statistics at an investment option level? Has this option been explored?

**Mr Jones**—We have begun discussion with industry on the collection of investment option level. Part of the difficulty will be the extent of the collection because some funds will have as many as hundreds of different options. So we will be talking with industry in terms of what is the best way to produce the disaggregated statistics. This was, in fact, part of the process that we began in the May process that would have led to the new statistical collection. That publication, however, would take some time because, again, superannuation is a long-term proposition. We are not very eager to produce quarterly statistics in that sense at the fund level. Also, we would want to maintain the integrity of the system. So you would probably wait a couple of years to get some good information on that.

**Senator BUSHBY**—That makes a lot of sense.

**Senator Sherry**—That is certainly something that I supported, although not formally, because I think it would be very useful to see in some cases the medium- and long-term performance of hundreds of investment options in some particular trustee entities versus the default option and whether, in fact, with at least some of the investment options, what those longer term returns are versus the default option.

**Senator BUSHBY**—At previous estimates—I am not sure whether they were the last ones or those before—APRA acknowledged that the tables are incomplete in the sense that they do not have 'all data', and they were the words that were used by an APRA representative. You have since published a first round of statistics. How comfortable does APRA feel about publishing those? I know that you have said they are really only for trustee use, but the reality is that they will get used beyond trustees and the information in them is—I think we might even have discussed this to some extent—potentially misleading because they are incomplete.

**Mr Jones**—I think we would disagree. I do not think we would agree that they are misleading. They are a measure of the fund's performance. That measure of the fund's performance is an aggregate of all those different investment options. So, if some of those investment options that have been chosen by the trustee are particularly poor, that would lower the average; if some of them were particularly worthwhile, that would raise the average. But it is a measure of the performance of the trustee because it is the trustee who determines the investment options that are available to the members. So it is a very good measure of how effective the trustee has been in providing the variety of options available to the members that leads to the best outcomes.

**Senator BUSHBY**—Just for the record, I think the misleading occurred through a question that I asked at a previous estimates committee and, in the context of the conversation at the time, it was not counted. I can go back to that later. Thank you for that explanation. Given that the tables are not designed for the use of consumers do you then have any concerns if they are used by consumers? Does APRA hold any concerns if they are used by other than the trustees of funds for purposes other than the intention behind their production?

**Mr Jones**—I do not think it matters if consumers use these tables if they get a good understanding of what they are for.

**Senator BUSHBY**—What if they do not have a good understanding though?

**Mr Jones**—Remember that they are measures of past performance. The statistical publication says quite carefully that they are not intended to suggest to people that past performance is a reflection of future performance. It is a measure of how funds have performed over the past five years. That is what the statistical publication is all about.

**Senator BUSHBY**—But it is how they are used. I take on board your comments that they come with appropriate warnings about how they should be used; nonetheless, I think the reality is that they are being used in ways other than APRA would intend. You yourself said that they are an aggregate of a number of different investment options and, if somebody with a particular fund is considering undertaking a capital growth investment option of some sort that over many years has performed very well, they may well be put off by the result of an aggregated performance for the fund that manages that particular investment option. They may then go off and choose an option which will not necessarily reflect their best interests.

**Mr Jones**—I would imagine that in most circumstances, if people are making those types of choices, they are doing so with the assistance of a financial planner. In many circumstances, many of the funds do not even advertise at the fund level; they advertise at a brand level. So a particular brand is the thing that is advertised by the entities themselves, not even the fund. So typically a person who is being influenced in terms of which particular direction to go in is using the advice of a financial planner.

**Senator BUSHBY**—I will leave it at that. I will move on to my last couple of questions, and they are to do with default awards. An awful lot of Australian superannuation funds will be going into super funds named in the modern awards as ‘default funds’. What regulation or oversight will be employed to ensure that funds that receive this money remain competitive, lean, hungry and top level performers—

**Senator CAMERON**—They haven’t been doing too badly.

**Senator BUSHBY**—and avoid the temptation to undertake uncompetitive practices, such as price fixing, geographic exclusivity arrangements and so on?

**Senator CAMERON**—They are the funds that lead the way. That is what you need to remember. They lead the way. Be a bit balanced in your comments for once.

**Senator BUSHBY**—But, Mr Jones, they will have a nice easy guarantee that they will get lots of superannuation contributions paid into them from now on without having to go off and necessarily sell their wares.

**Mr Jones**—All of the funds that are APRA supervised are supervised in the same way and our concern is with the supervision of the funds. The way in which we supervise any fund does not vary according to the nature of that particular fund; it varies according to the nature of the risk.

**Senator BUSHBY**—You are prudentially regulating it but I am concerned that, as I say, you have a situation here where basically a fund gets named as a default fund in an award that affects a lot of Australians and a lot of money comes in; it does not have to do that much to ensure that that money keeps coming in. In a sense, I think it is a different case from normal because the individuals whose money is going into those funds are, by the nature of the fact that they are going in as a default, not taking a close look at what is happening with their money. I would think that there is probably a greater degree of responsibility to them than to those who do go off and research and find where they really want to put their money.

**Senator Sherry**—As has been indicated, it is not an APRA issue. It is a relevant issue for the Cooper review and they can consider it in that context, and they may or may not make some policy recommendations to government to change existing operational parameters in that area. In the past, both here and in the chamber, we have discussed default funds. It is not a simple issue of so-called industry funds being named in awards. There are other arrangements. There are corporate funds in awards that act as defaults.

**Senator BUSHBY**—The same questions would apply to them.

**Senator Sherry**—Exactly. There are a range of public sector funds particularly that are statutorily based rather than industrially based. I looked at the second discussion paper of the Cooper review earlier in the week and certainly the issue of default and its place and mechanism et cetera is well canvassed in the questions within that review.

**Mr Jones**—In looking at things like costs, we would look at the cost structures of all trustees. At various times, the supervisors, as part of the normal supervision, look at the nature of costs and fees and so on and they would question the trustees if anything looks to be particularly out of the ordinary: ‘Why are these costs particularly high? Why are you charging for this? Do you believe that you are getting better quality service as a consequence of these particular fees?’ This is not necessarily related to any particular type of fund linked to a particular award; it is simply part of a normal process whereby with any fund that you look at, given that under the trustee structure they should all be operating in the member’s best interests, if you see something that looks like excessive fee gouging or anything that just looks peculiar in terms of cost, these are the sorts of question that typically the supervisors would ask.

**Senator BUSHBY**—That is fine; thank you.

**CHAIR**—Senator Cameron.

**Senator CAMERON**—Thank you. Dr Laker, I do not usually take the bait from Senator Eggleston; but, given that he has challenged me to raise the issue of executive pays, I should have a small excursion into that area. I notice that, apart from your responsibilities under the various acts, you have a mission statement, which is to provide a stable, efficient and competitive financial system. Is that your mission statement?

**Dr Laker**—It is to ensure that financial institutions meet their promises to their beneficiaries within a stable, efficient and competitive financial system. Our mission statement is about promoting financial safety.

**Senator CAMERON**—I just looked at it and it says ‘stable, efficient and competitive financial system’.

**Dr Laker**—It is in a broader context; there are more words to it than that.

**Senator CAMERON**—Yes. In that context, would an issue for you be what the Productivity Commission described as ‘poor practices’ and ‘excess’ among some executives and ‘weakness in governance’?

**Dr Laker**—In the area of remuneration—

**Senator CAMERON**—Remuneration, yes.

**Dr Laker**—it goes to the heart of governance. That is why the proposals that we are discussing on remuneration, when they are finalised, are grounded in our governance prudential standard. Our focus within that is the management of risk. We have learned from the global financial crisis that the incentives that were provided in some major global institutions to risk takers were excessive, and that was one of the contributing factors to the global financial crisis. So you will see that our approach is really shaped by a focus on governance and the role of the board and it is shaped by an attention to the risk management aspects, not other aspects.

**Senator CAMERON**—But there are other factors in relation to excess among executive salaries other than excessive risk taking, aren’t there?

**Dr Laker**—Yes, there may well be. But our focus is—

**Senator CAMERON**—No. I am asking: do you agree that there are, or are you saying that there may well be? Are you challenging that statement?

**Dr Laker**—All I am saying is that what we will be looking at is not the quantum but the structure of a remuneration package, because that is our brief in this area: to look at how the structure of a package either encourages or discourages risk taking.

**Senator CAMERON**—There is not just an issue of the structure of the package itself; there are the governance issues and the role of shareholders as well.

**Dr Laker**—It is really the roles of a board that we focus on because most of our institutions are not themselves listed companies. Whatever the ownership structure is, the board is the representative of the owner. We hold the board accountable for the risk appetite of the institution and the risk management overall of the institution, and the setting of a remuneration structure is part of that.

**Senator CAMERON**—But the board has to operate within the legislative framework and the regulatory framework.

**Dr Laker**—Yes.



**Senator CAMERON**—If the legislative framework and regulatory framework determine a wider role for shareholders, surely that must influence your operation in terms of the regulatory requirements on a board.

**Dr Laker**—Boards must always operate within the framework of the Corporations Act and any other legislative and regulatory requirements, but I do not see that as a source of tension for us. We operate within those frameworks as well.

**Senator CAMERON**—In terms of the Productivity Commission report, I think it was quite predictable, from my perspective. It was quite conservative and quite timid in terms of its approach. It is not an issue for you; I raised some of these issues late in the evening with the Productivity Commission itself. But one of the issues it has raised is quite a timid approach and it is called the ‘two-strike rule’. Have you had a look at that?

**Dr Laker**—I have read the report, but it is not one that I have focused on in particular—not that particular aspect.

**Senator CAMERON**—But it is one that has created quite a lot of concern amongst the executives of various boards, including the banking industry. So you have not paid any attention to that?

**Dr Laker**—We are still in consultation with the industry about our proposals. We have spoken to the Productivity Commission about their proposals—

**Senator CAMERON**—I am happy for you to be in consultation with the industry about your proposals. I am asking: have you paid any attention to the controversy that has arisen over this two-strike rule?

**Dr Laker**—At the member level, we have not yet addressed the consequences of the Productivity Commission report; it has only come out recently. Mr Littrell, who works on this issue in the Basel context, is looking at a range of other matters. It will be part of our overall assessment of where APRA goes on the remuneration issue. But I cannot engage you in a debate on that particular rule; it is not party to our—

**Senator CAMERON**—I am not asking you to put a debate. I do not want you to debate me. I want you to answer my questions, thanks. At the moment, I am looking for some idea as to whether APRA agrees with the arguments that are being put up by some executives who come under your purview that this two-strike rule is a step too far and would be a Trojan horse for corporate raiders. I would have thought that APRA would have been concerned about something that meant corporate raiders could disrupt the stability and proper governance of a bank or any other organisation. You have not considered that at all?

**Dr Laker**—We have a range of other protections against corporate raiders. We are talking here about regulated financial institutions that are subject to very strict shareholder requirements, subject to the Financial Sector (Shareholdings) Act. We are not talking here about industrial or other companies. We are very careful about the capital and the ownership structure of regulated finance institutions. I will take your question on notice. It will be something that we will look at. But, with our focus on these issues, we have set a strong principles based approach to remuneration. The boards will be very clear about what accountabilities they have to us and to their shareholders on risk and reward.

**Senator CAMERON**—Given that you have not paid much attention to this and you have been focusing on your own approach to this, can I ask you to take on notice whether, with the Productivity Commission proposal, there should be a two-strike rule in relation to executive salaries? Could you take on notice whether that will create the problems that some executives are screaming about, which is the Trojan horse issue and that it will unduly consume the attention of boards? Is that an issue for APRA?

**Dr Laker**—I will take that on notice.

**Senator CAMERON**—Thank you.

**Senator EGGLESTON**—I have a question that I will put on notice, if you so wish, Madam Chair. This relates to the question of fees charged on retrenchment when employees are shifted from wholesale super accounts negotiated by their employees to retail accounts whose fees, on average, are two per cent more, I gather. This refers to an article in the *Sydney Morning Herald* on 18 March and it includes a comment of concern from the minister. The article states that he:

... called on the industry to show restraint in charging fees to retrenched workers. "I don't believe super funds should profit from hard-working Australian employees who lose their jobs through no fault of their own, or leave a job for other reasons. I have asked industry regulator APRA to collect hard data to see how widespread the practice is."

I would put a question on notice about this and ask that we receive a reply in a fairly timely fashion.

**Senator Sherry**—I cannot give you one, because I am no longer the minister in the area.

**Senator EGGLESTON**—I know you are not. The question will be for APRA, Minister. This is a question on notice to APRA—'the then minister', I should have said.

**Mr Jones**—If I can just respond: we have supplied the minister with, I think, something similar to what you are talking about, which is the fee data questionnaire, which was looking at what happens to the fees charged when people no longer are with the same employer. We have supplied that to the minister. In fact, the piece that you refer to in the newspaper, I think, may have been the response to some of the information that we supplied.

**Senator EGGLESTON**—Has there been an answer to this issue though? Are you doing anything?

**Senator Sherry**—Are you referring to my quote?

**Senator EGGLESTON**—I am referring to your quote.

**Senator Sherry**—This was many months ago, when I made the request. We will take on notice the—

**Senator EGGLESTON**—These are switching fees—

**Senator Sherry**—Yes. It is called 'flipping'. I will take it on notice for the current minister Mr Bowen.

**Senator EGGLESTON**—If you would, that would be very kind of you. It could go to APRA as well for their view.

**Senator Sherry**—Apparently he released the data, I am informed.

**Senator EGGLESTON**—I see. We do not have it in my office.

**Dr Laker**—That can be arranged.

**Senator Sherry**—We can arrange it.

**Mr Jones**—We can arrange that.

**CHAIR**—We thank APRA coming in this evening. The committee will break for dinner until 7 pm, when we will resume with the Australian Competition and Consumer Commission.

**Proceedings suspended from 6.06 pm to 7.00 pm**

**Australian Competition and Consumer Commission**

**CHAIR**—Welcome. Mr Samuel, do you have an opening statement that you would like to make?

**Mr Samuel**—In light of the hour I think we will go straight to questions.

**Senator PRATT**—I have some questions with regard to the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009. Given that the National Broadband Network is going to deliver a wholesale only, structurally separated network, in the ACCC's view do we really need this bill now? Do you support these reforms and what do you think the major benefits will be?

**Mr Samuel**—We need to separate this legislation from the National Broadband Network, because it is legislation that, as its title suggests, is focused on competition and consumer safeguards. I will leave out some of the consumer elements because they are not within our bailiwick. The legislation is directed towards dealing with some of the deficiencies in the regulation of the telecommunications sector, regulations designed to achieve true competition in that sector that has been experienced over the past 10 or more years. It focuses on two or three elements. There is the structural separation element which, in the long-held view of the ACCC, is the only way that we can ensure equivalence. That has been stated to be the objective of the legislation, to ensure equivalence. The other elements, of course, deal with what I will call the interim process of regulation and deal with the ability of the ACCC to, as I have described on previous occasions, regulate for competition under the provisions of parts XIB and XIC. They are, in our view, necessary amendments to be made to ensure that the ACCC has the fair and proper capacity to regulate for competition. I do not think that any observer would be able to say that the experience of the ACCC over recent years suggests that the current legislation—that is, the legislation as we currently have it in place under parts XIB and XIC of the Trade Practices Act—adequately deals with the issues of competition in the telecommunications sector.

**Senator PRATT**—How would the ACCC currently characterise the state of competition in Australian telecommunications?

**Mr Samuel**—It depends on which area we are talking about. In the area that is focused upon in the context of the legislation—that is, fixed line services—it would be fair to say that we are constantly fighting an uphill battle to deal with the issues of competition and to enable

the retail competitors and the wholesale competitors to effectively compete in the market. The experience over the past three or four years has been very difficult indeed, ranging from a series of processes and practices that have been adopted by the incumbent, Telstra, which in one pejorative of sense has been described as the FUD technique—that is, the fear, uncertainty and doubt technique.

**Senator PRATT**—Yes. We have seen it in action.

**Mr Samuel**—It has been developed quite adeptly in order to constrain investment by competitors or to achieve the objective of facilities based competition. We have seen circumstances where those who have sought to invest in facilities based competition, more specifically by installing DSLAMs in exchanges to roll out ADSL and ADSL2+, have found themselves in a state of FUD—fear, uncertainty and doubt—as to whether or not their investments might be stranded. They have had difficulties in gaining access to exchanges and the like, and that has meant that there has been essentially a slowdown, if not almost a capital strike, in relation to facilities based competitive investment.

**Senator PRATT**—The ACCC has said that Telstra is one of the most integrated telecommunications companies in the world. Can you tell us how the ACCC has reached that view?

**Mr Samuel**—Essentially through assessment over many years of the structure of Telstra relative to its counterparts in other nations in the world. We need to understand that we have gone through many iterations of regulation endeavouring to deal with the incumbency and the high level of vertical integration of Telstra as the incumbent dominant player in the marketplace. At Senate estimates either in June or earlier this year, in answer to a question from Senator Lundy, I put the view that the current state of regulation, particularly with respect to the operational separation regime, simply was not working. It had failed. It was too capable of avoiding the objectives of that operational separation regime as put in place towards the end of 2005. Any objective observer would agree with the proposition that the ACCC has faced significant hurdles in being able to deal with the true objective, as we see it—that is, trying to put in place competition in the telecommunications sector, particularly in the fixed line area.

**Senator PRATT**—What is the best way to ensure equivalence of access for competing telecommunications companies?

**Mr Samuel**—If you want to ensure equivalence of access then I would have to say to you that, in our view, the only means of achieving that is to go through a process of structural separation. If you do not want to ensure equivalence but you want to get to a lesser position with lesser competitive dynamics then of course you can adopt lesser processes. The process to date, which has involved a form of operational separation, is probably at the lightest end of regulation in that direction and in our view has been a failure.

**Senator PRATT**—Does the functional separation go far enough to get that competitive outcome?

**Mr Samuel**—Functional separation is a step along the way. In our view, the only way of ensuring equivalence is to put in place a full structural separation.

**Senator PRATT**—In your view, is that consistent with what the government has put forward in terms of achieving that goal?

**Mr Samuel**—The legislation is focusing upon that particular issue. The processes outlined in the legislation are not appropriate for us to comment upon, but the objective of the legislation is to deal with two issues. The first is to bring about that full structural separation of Telstra, as one of the options available to Telstra, and then the other area, of course, is to deal particularly in this interim period until the National Broadband Network is rolled out—and I think it focuses on an 8- to 10-year period—to bring about some significant improvement in the regulation contained under parts XIB and XIC. The submission that we put to the department in respect of the regulation of telecommunications, which I think is on the public record, indicates a number of improvements that we thought were appropriate and for the most part our recommendations are reflected in that legislation. The draft legislation is before us.

**Senator PRATT**—In its submissions to the Senate on the bill we are talking about, Telstra argued that separation arrangements in electricity are, in fact, less extensive than those currently applied to Telstra under its operational separation framework. Can you tell me what the ACCC thinks of that view and whether you share it?

**Mr Samuel**—There will be a constant debate about what is involved in structural separation. It is appropriate to comment that none of us has, until recently, focused on the reality of that objective ultimately being achieved. I am very conscious of the fact that in previous years it has been the view of the ACCC that whilst structural separation was a desirable outcome it appeared not to be a policy that was being addressed by government or that was even in the contemplation of government at the time; therefore, we had not given a lot of focus to it at that point in time. There will be a constant debate as to whether electricity has full structural separation and there is some vertical integration in relation to electricity, but in any event I have to go back to the original objective. If the objective is to ensure equivalence in access by wholesalers or by competitive retailers to Telstra then structural separation is, in our view, the only framework that will ensure equivalence in access.

**Senator PRATT**—That involves Telstra surrendering that network. Telstra also argued that the ACCC never successfully prosecuted Telstra for the sorts of discrimination that would surely be required to justify the separation. How does the ACCC respond to Telstra's claim in that respect?

**Mr Samuel**—What that illustrates is the weakness associated with the provisions of part XIB in their ability to deal with anticompetitive conduct. Part XIB, as it is currently set out, provides for the use of competition notices. We have been concerned for some time that the competition notice regime outlined in part XIB has proved to be deficient in its ability to deal with anticompetitive conduct by Telstra. I think that has been demonstrated over several experiences in recent years, beginning with one that occurred earlier this decade that took 12 months or more to investigate. That was in an early 2001 competition notice. There was an extensive investigation over a period of 12 months where the damage is still being done, and then there was the ultimate use of the competition notice. The second one was in 2004, if I am not mistaken. Forgive me on the dates. We managed to rectify a significant part of the competitive damage that was occurring at that point in a very short period, but the balance of

the competitive damage we investigated. There are issues then dealing with the obtaining of evidence from parties and negotiated deals that are done by Telstra with its competitors that can sometimes make it difficult for that evidence to be brought forward.

**Senator PRATT**—In other words, Telstra got away with it at the time and really should not be able to do that.

**Mr Samuel**—I would not put it in those in terms in terms of the evidence that I would give. Certainly that is a view that has been put. We have had a more recent example and, again, there are issues where you can put in a competition notice and the notice was challenged on the basis that it was not preceded by an appropriate consultation notice. This legislation that we now have before us is proposing to remove the consultation notice process to at least remove that process driven element out of the whole competition notice process.

**Senator PRATT**—How would you characterise the main problems currently with the access regime—that is part XIC—and how far does the bill go in addressing that issue?

**Mr Samuel**—There are two fundamental elements of the current access regime that need to be addressed. The first is that it is what we would call an ex post—a negotiate and arbitrate—process. How many do we have on the books at the moment, Mr Riordan?

**Mr Riordan**—Forty-two.

**Mr Samuel**—We have 42 arbitration disputes on the books at the present time and they can take a long time to put in place. There are procedures that need to be adopted in the interests of fairness and the like. What is proposed under the new legislation is to adopt a process that has now been working with singular success in the utilities area, which is the ex ante—set and forget—type of process where access terms, conditions and prices are set in advance, and then at least investors and those dealing with infrastructure facilities have some certainty into the future as to the access terms, conditions and prices that would apply. There have been other issues that we have had to deal with. Although arbitrations are not capable of being reviewed through the Australian Competition Tribunal, there are other processes that are available under the law as it currently stands for the review and analysis of both arbitration disputes through Federal Court processes and/or dealing with undertakings. The undertaking process is laboriously slow and very inflexible in the way that it can deal with issues that are fundamentally commercial disputes between the incumbent and access seekers.

**Senator PRATT**—As I understand it, a number of decisions made by the ACCC have been appealed to the Australian Competition Tribunal. How many of those appeals have been upheld?

**Mr Samuel**—None. The determinations or the criteria have essentially been the question of whether or not undertakings lodged with the ACCC are reasonable or unreasonable, and it is fair to say that in summary the tribunal has said that in every case the undertakings were unreasonable and, therefore, were appropriately rejected by the ACCC.

**Senator PRATT**—I wanted to ask about the fate of the universal service obligation. What do you think that will look like and how will that operate under the new bill? Do the reforms strengthen the universal service obligation?

**Mr Samuel**—That is moving outside our bailiwick, so I do not think it is a matter that we can appropriately comment upon.

**Senator PRATT**—Thank you.

**Senator ABETZ**—Could you give us a brief update as to your activities in relation to the Swift matter and Cuthbertson in Tasmania—that is, the lambskin issue. I understand there was going to be a meeting in Sydney. I understand that it is still an active file, so I do not want to blunder into what you may or may not be doing, but I would like an update as to the framework and whether there is a meeting.

**Mr Cassidy**—As you know, we had a good look at the Swift matter. There were a couple of issues. One was an allegation of section 46 conduct—that is, abuse of market power. That fell away fairly quickly and with Cuthbertson, as we understand it, their own legal advice was that there was no section 46 issue.

**Senator ABETZ**—I am aware of the letter that was sent to you with lots of heads of potential action that you might take. I understand that the ACCC has responded in a particular way as to the number of heads or potentially only one head. Has a meeting been called with the ACCC and Swift to further the matter?

**Mr Cassidy**—I am afraid that I am not aware of the answer to that.

**Mr Bezzi**—I can help you there. There has been a meeting between the ACCC and Swift in relation to the matter.

**Senator ABETZ**—Was that in Sydney?

**Mr Bezzi**—It was in Sydney. They came down from Brisbane and our regional director from Hobart came up for the meeting. We had a discussion about the issues and in particular the suggestion that there had been some breach of the Trade Practices Act associated with the tendering process. Following the discussions with Swift we have been advised that the company has decided to abandon its commercial acquisition of skins from its Longford operation, while continuing to administer the skin tender process.

**Mr Cassidy**—The other important development there is that Cuthbertson, as we understand it, is now purchasing its skins directly from the growers, which was an option that was always available. It is now doing that. The bottom line is that we could not find any conduct here that would have been in breach of the Trade Practices Act.

**Senator ABETZ**—All is well that ends well and in relation to that situation, so far so good. How many regional offices do you have? I know you have one in Hobart.

**Mr Cassidy**—We have one in each of the capital cities. In addition, we have one in Townsville.

**Senator ABETZ**—Does each one of those have a position that is called director?

**Mr Cassidy**—A regional director, correct.

**Senator ABETZ**—Would you be able to provide me with a list of them on notice and their academic qualifications?

**Mr Cassidy**—Yes. The list is widely published. It is in many of our publications for contact purposes.

**Senator ABETZ**—Can you take it on notice? That would be easiest.

**Mr Cassidy**—I will take it on notice. I will need to check on their qualifications.

**Senator ABETZ**—Thank you for that. I also thank you for meeting up with Mr Byard on an issue dealing with red meat, which I note the minister has agreed not to pursue further. From my perspective, that is regrettable. I would like to move on to National Foods and the dairy farmers. I have a hunch that Senator Colbeck is interested in that one as well.

**Senator COLBECK**—Every chance I can join in.

**Senator ABETZ**—Rather than joining in, given your presence, I will handball to you and I will go to Austrade. Are you happy with that?

**Senator COLBECK**—Yes.

**Senator ABETZ**—To get it rolling, can you give us an update as to what is happening, if anything, with National Foods and the dairy industry in Tasmania. Do you have an active file or active case?

**Mr Cassidy**—We have obviously seen a lot of the press in relation to dairy industries, particularly in Tasmania. Despite the comments being made to the various parliamentarians, parliamentary committees and the press, we have only had one complaint in relation to conduct in the dairy industry. This one complaint is reasonably well known, because it was the focus of the rally that was held in northern Tasmania. We are looking into that complaint and at the moment we are waiting on more information from the complainant. Beyond that, we have written to National Foods.

**Senator ABETZ**—You can pursue matters of your own volition.

**Mr Cassidy**—Yes. We do not need a complaint to pursue a matter. If we see something we suspect might be a breach of the act or indeed something we feel we need to know more about within our compass, if I can put it that way, then we can initiate our own action. I would not characterise this as being an investigation, a word I am cautious in using, since I could not say that we have any particular conduct that is a potential breach at this stage. That brings me back a bit to my comment about only one complaint. We have written to National Foods to obtain their views on both what is happening in Tasmania and also how that contrasts with what they are doing in the rest of Australia.

**Senator ABETZ**—Do you have jurisdiction to ask them what they are doing in New Zealand as well or not?

**Mr Cassidy**—No.

**Senator ABETZ**—I understand there is a differential in the price they are willing to pay the producers in New Zealand as opposed to Tasmania.

**Mr Cassidy**—That is something we could probably find out information about. We have not asked, but we could probably ask National Foods. In a sense this is a voluntary request. We are not using our compulsory information acquisition powers. As I said, at this stage we do not have a suspected breach of the act to investigate. I am hesitating a bit, because the



response from National Foods is due almost any day, as I understand it. It may well come in today, but I am afraid I am not aware of that. That is what we have done. If there were more complaints, we would have been more active, although I have to say to you—and I hope I do not give offence to anyone in saying this—I understand from certain discussions held with the industry that, at the end of the day, it is not enforcement of the Trade Practices Act in particular that the industry in Tasmania is pursuing.

**Senator ABETZ**—Given that the petrol commission was such a rip-roaring success, somebody in Tasmania came up with the idea of possibly having a farm gate commissioner to try to look after the small business sector. I thought that might excite Mr Samuel. I could really spoil this for you by asking the minister as to what the policy position of the government is in relation to that, but I would be interested in your view as well.

**Mr Samuel**—I saw that and I took two steps. The first was to ask the petrol commissioner, Joe Dimasi, whether he was also interested in being the farm gate commissioner. There was a very quick and short answer to that and I will leave you to guess that.

**Senator ABETZ**—That he no longer wanted to be petrol commissioner.

**Mr Samuel**—No. He was focusing on the extra duties. He did not think he would have the time to be the farm gate commissioner. I was also thinking of pulling out of *Hansard* some objections that have been raised by a Tasmanian senator to the role of the Petrol Commissioner at the time, which was earlier last year, to see how they compared with attitudes to the farm gate commissioner. I thought it was not really worth the effort.

**Senator ABETZ**—I am not suggesting a farm gate watch like Fuelwatch.

**Mr Samuel**—No. I was thinking of a commissioner.

**Senator ABETZ**—It depends on what role they would undertake, but I accept that is a policy decision and I simply bounce the ball here for the government to potentially take on board. I am sure you will get a lot more sensible questions from Senator Colbeck.

**Senator COLBECK**—Don't raise expectations too high! Mr Cassidy, is the complaint that you have one individual complaint at this point?

**Mr Cassidy**—That is correct.

**Senator COLBECK**—I do not think we need to go any further than that. You might find some more interest down the track. It is as it is at the moment, and I think we can leave it there. I would make a comment on Senator Abetz's mention of pricing in New Zealand. It is on the public record, particularly through hearings that we had in Devonport and in Canberra, regarding differentials of pricing around the country based on individual markets. For example, I think it is either in southern Queensland or northern New South Wales where National Foods is paying close to 50 cents a litre for the milk. Paraphrasing their evidence, it is based on the fact that there is a higher cost of production in that area and they are paying on that basis, whereas the average price in Tasmania is something of the order of 29c. I have heard of a farmer being paid as little as 19c in the last week or so. That is where the issues start to come in. On their own admission, where the market price is different they will pay a different market price based on the local market price being paid. That brings me to the question about how you view a business that effectively does not calculate a price themselves.

They set their price once they know what their competitor is going to be entering the market at. How does that fit within the overall scheme of things?

**Mr Cassidy**—I am not entirely sure I understand your question.

**Senator COLBECK**—I can give you a direct quote that provides that to you. This is a quote from *Hansard* from our Senate committee on 7 October, where Mr Ashley Waugh of National Foods stated:

We do this by basing our price on the largest competitor for milk by region. National Food commits, by way of contracts to its farmers, to pay a premium over that competitor to ensure security of supply for 12 months of the year. In Tasmania our largest competitor, Fonterra, which buys about 65 per cent of Tasmanian milk, has reflected in its pricing the global value of farm gate milk.

They wait until their competitors set a price and they set a price based on that, which is based around a farm formula that they apply to each farm contract.

**Mr Cassidy**—That sort of behaviour would not be unusual.

**Senator COLBECK**—Would not?

**Mr Cassidy**—It is all right for price matching in the sense that you see what your competitor is doing and then you pitch your price either a bit above or equal to depending on where you want to be. If you stop and think about that you can probably find that sort of behaviour occurring in all sorts of areas. In fact, I think it is almost part of the competitive market process. We understand that farmers in Tasmania see farmers on the mainland being perhaps paid more and think that is unfair or perhaps even worse than that. From our point of view, we need to find out one of two things: that the pricing behaviour is anticompetitive or, in other words, that the pricing behaviour is structured so as to try to drive out one or more competitors. Alternatively, we need to find that the pricing behaviour is such that the buyer is quite deliberately trying to injure or do harm to the seller, so-called 'unconscionable conduct'. Even if we were to establish the price differentials—that these farmers are being paid more than other farmers—that in and of itself does not take us to any potential breach of the Trade Practices Act. As I said, it has either to be for an anticompetitive purpose or, alternatively, there has to be so-called unconscionable conduct by the buyer towards his suppliers.

**Senator COLBECK**—I think I understand what you are saying. I suppose, in that context, the fact that the market is at a certain level and they are within that level in the market deals with that particular issue. I think the individual complaint that you have has other dimensions to it.

**Mr Cassidy**—That is right. It does.

**Senator COLBECK**—That gives it a much different perspective from that overall circumstance. Have you had a look at the relationship between the milk supply companies, the major supermarkets and the structure of the process that flows through there? There was a decision made by the supermarkets some years ago to effectively go to one supplier, yet with the market power that is put through the whole milk supply into the major supermarkets across the country.

**Mr Cassidy**—Over time we have looked at the dairy industry a couple of times. One was in the context of the decision to deregulate farm gate prices, which was actually a decision by

the previous government back in 2002. The government asked us to monitor what was going on with prices. More recently, we were asked by the current government to monitor the impact of the removal of the 11c a litre levy that was funding the deregulation package for the industry. In our grocery inquiry report, which we completed about the middle of last year, we had a number of case studies. What we found in looking at the supply chain was that, in a sense, the farm gate is very competitive and the milk producer only gets a fraction of the final retail price, but we also found at the retail end that the margin that the retailers are getting on fresh milk is not all that high either and only accounts for a small proportion of the overall retail price of milk. Much of the difference occurs through the processing-transport stage of the production of retail milk.

**Senator COLBECK**—The interesting thing about that, though, is that if you look at the branded product that is sold in the major supermarkets and the supermarket branded product they both effectively come from exactly the same source. The one company dominates that market for the supermarket branded product but also has their own branded product on the shelves and there is a considerable price difference. It is about 50c or 60c.

**Mr Cassidy**—That is right.

**Senator COLBECK**—In our market in Tasmania, at the current time, it is slightly cheaper by 4c or 5c than the company branded product. The fact that there is that significant differential in the market is an interesting point. We will be hearing some evidence about that tomorrow so we can deal with that further and perhaps pass it on if necessary. I would like to go to some of the practices of the supermarkets in defending their position or a perception of that. There was a letter in the *Mercury* last Saturday from a person who went into Coles. This whole public argument has caused a shift in the market, as you might understand. A lot of Tasmanians have decided that they want to send a message to National Foods by preferring different products. They went to a Coles supermarket in Glenorchy on Tuesday morning to get some milk—about mid-morning, at 10.15, I am advised—but there was none on the shelves. Normally there would have been, but there was none on the shelves. They were told it had not arrived. The next day, on the Wednesday, they went to Woolworths in Moonah and they got the same story. Having checked with the company, my advice is that the deliveries were made on time, yet it was not on the shelves. My concern is that there is potentially some protection of house brand in particular as part of that process. This letter appeared in the *Mercury* on Saturday and there has not been an issue with the supply of milk since. Whether that has got the message through or not is another question, and I know that the companies have denied that. The issue is that that sort of practice could be potentially used against a minor market player. I know that the other company in Tasmania is a minor market player, with 22 per cent or 23 per cent of the market, but it is concerning that you see these sorts of things start to crop up.

**Mr Cassidy**—Again, if I am understanding the conduct, I think it is open to a retailer, in a sense, to decide what they put on their shelves.

**Senator COLBECK**—A sensible retailer has what the customer wants, and obviously the market is making a point here. Whether or not it is advocated—and I am not one that advocates a boycott, and I am more than happy to put that on the record—the market is doing that without any real encouragement.

**Mr Cassidy**—The reason I find that a bit surprising is that one of the things we found with the fresh milk market is that, while there is a fair bit of focus on the major retailers, what you might call the smaller sellers—the local store, the convenience store—have a very significant share of the fresh milk market. It is a market where both price and availability are fairly important determinants of where people buy, and there are a lot of choices. A retailer who is saying, ‘I’m not going to put this particular brand of milk out on my shelf. I’m going to put it out later on today’, could well be running a risk that people will simply buy their milk elsewhere.

**Senator COLBECK**—That is a fair comment, but one of the attractions with a major supermarket, as we all know, is convenience and being able to get what you want when you want it.

**Mr Cassidy**—If you were in the supermarket doing your weekly shopping you could not just go somewhere else to get your milk.

**Senator COLBECK**—I have received calls from some of the National Foods vendors saying, ‘We’re getting squeezed.’ One person told me yesterday he had lost 25 per cent of his business. I do not doubt that is the case. He could have lost more; the convenience of him coming was what helped him keep some of that business. It is obviously a major concern in the market at the moment. I will move on from that, because that issue is going to continue to bubble and you are obviously going to see more of that. I turn now to country of origin labelling. Is that something you spend much time looking at? I know that you do not essentially do any monitoring. Is that on the basis of complaint or information provided to you?

**Mr Cassidy**—That is one of those curious parts of the Trades Practices Act where we are the enforcement agency but the actual policy responsibility is completely outside the portfolio. Our main role is one of enforcement.

**Mr Samuel**—We do that on an irregular basis. It is largely as a result of a complaint, not only by consumers but also by competitors in the marketplace. There was a recent example, not dealing so much with country of origin but with state of origin, regarding some cheese described as made in the southwest of Western Australia when in truth it was manufactured in Victoria. We took that through the appropriate prosecution processes. This happens and more often than not, as I said, it comes from the competitors.

**Senator COLBECK**—I have seen so many sources of King Island beef travelling around the country you wonder how big the island is. That is a story for another day.

**Mr Cassidy**—There are different provisions in the Trades Practices Act that are related to this. One provision is the misleading deceptive conduct provision. If someone labels something as made in Australia or, for that matter, in any country and it is in fact made somewhere else, we can take action under that general provision for misleading and deceptive conduct, quite apart from the more specific issues about Australian made and so forth.

**Senator COLBECK**—Just going back to the definition, Mr Samuel made the comment about something that was claimed to be made in southwest of Western Australia actually coming from somewhere else. How defined is the level of protection in relation to branding for a locality? I know there are specific provisions that deal with the wine industry, and there

are an increasing number of regions looking to have a local branding. King Island is one that has been quite vocal about protecting its brand with respect to cheese and beef in particular. How defined is the protection for that local branding?

**Mr Cassidy**—It depends. We get into the issue of patents and copyright here. As I understand it, there is a patented label of King Island beef.

**Senator COLBECK**—Yes, that is correct.

**Mr Cassidy**—Obviously that can only be used with the approval of the King Island body. I have forgotten the name of the body concerned.

**Senator COLBECK**—It is owned by the local council.

**Mr Cassidy**—That is right. That is different from a general description that might say ‘Grown on King Island’ or ‘Fed on King Island’. We looked into the issue of the King Island beef being shipped to Victoria and slaughtered and being described as grown on King Island or whatever the terminology was that was used. As a matter of fact, it was hard to say that that was not the case. They were born, bred and fed on King Island and then they were simply shipped to Victoria to be slaughtered. That general descriptor would be an issue that falls under the Trade Practices Act’s misleading and deceptive conduct. Again, you look at that in terms of the ordinary meaning of the words, whereas something like ‘King Island beef’, which is a patented trademark, is subject to protections of the Patents Act.

**Senator COLBECK**—I understand what you are saying and there will continue to be discussion about that on the island. At least it is better than ‘King Island rabbit’, which does not exist. The beef had spent some time on the island.

**Senator COLBECK**—What role have you played in the review of the horticulture code of conduct?

**Mr Ridgway**—The ACCC has provided some views to the Department of Agriculture, Fisheries and Forestry on various aspects of the recommendations that were made by the ACCC in its grocery inquiry findings. The policy responsibility for responding to those sits with the department. We have provided some views back to that department as it considers those recommendations.

**Senator COLBECK**—Have you had many actions or complaints that you have had to follow up in the time that the code has been in place?

**Mr Samuel**—It has been somewhat debateable. There is a fair degree of discussion on it in part B of our grocery inquiry report. During the course of that grocery inquiry we found that there was a reasonably interesting level of debate amongst growers as to the desirability of the code. At one extreme there were grower groups who were suggesting that they wanted the code extended in its application, but at the other extreme there were growers saying they wished the code was not there at all because they found it too prescriptive in their dealings with the parties to whom they were supplying. There is a high level of debate. I am not sure that we have had a lot of enforcement activity on it.

**Mr Ridgway**—We have had seven court enforceable section 87B undertakings. We have accepted seven since March 2008, and we have had one horticulture code case that we have also taken.

**Senator COLBECK**—I have a question on organic standards. There is the new standard that has been released recently. Is that an issue that provides some assistance to the ACCC in actually dealing with quantifying what is or is not an organic standard, and what status is that going to take now that the standard has been released?

**Mr Ridgway**—The ACCC has been working with the Australian Standards Committee as the organic standard has been developed. In our view, it gives some assistance in providing a benchmark for representations as to ‘organic’. It is one of a number of standards. There are others as well. The rigour with which the standard was developed by Standards Australia and the very widespread input gives it a degree of credibility. It is voluntary, of course, but it is something that we will consider.

**Senator COLBECK**—Have you had conversations with the other certifying bodies to see whether they are going to align their standards to that standard to assist with some consistency across the industry?

**Mr Ridgway**—With respect to the Australian standard, there is a process still underway to identify the accreditation of the standard. To the extent that there are other standards and processes, our understanding is that those bodies will continue to look to their own regimes. The standard-making process, though, has brought some of the diversity of views in the sector a little closer together.

**Senator COLBECK**—Thank you.

**Senator JOYCE**—Can the ACCC tell the committee how many mergers during the past 12 months have not proceeded as a result of concerns that the ACCC expressed to the merging parties?

**Mr Grimwade**—We have looked at 89 mergers this financial year, and of those approximately eight have caused us a substantial degree of concern. We have opposed five of those: three confidentially and two publicly. Two were resolved through the acceptance of section 87B enforceable undertakings, and one matter was withdrawn by the parties and did not proceed after we had expressed concerns in a statement of issues. In this financial year it has been about eight of the 89 that we have looked at.

**Senator JOYCE**—Has the ACCC had any input into the position proposals that have been released for discussion?

**Mr Grimwade**—We have made submissions in response to two discussion papers issued by Treasury and I believe those are both public.

**Senator JOYCE**—I will move on to cartels. Now that the laws making cartels a criminal offence are enforced, can the ACCC indicate whether there are any criminal prosecutions on the horizon?

**Mr Samuel**—No. It is not our practice to comment upon matters that we may or may not be investigating.

**Senator JOYCE**—No comment? Can the ACCC tell us when we are likely to see the first criminal prosecution? Is that ‘no comment’ as well?

**Mr Samuel**—No comment as well.

**Senator JOYCE**—Does the ACCC have any estimate of how many cartels are operating in Australia at the moment? Is that ‘no comment’ as well?

**Mr Samuel**—No, it is not a question of no comment. It is an impossible thing to define. I have indicated, at previous Senate estimates, a study that was undertaken in Europe as to the number of cartels that existed. The study was undertaken by two academics who indicated that only one in every seven cartels was detected. The question that I had was: how did they know about the other six?

**Senator JOYCE**—Is the ACCC concerned that small businesses and consumers may not be able to recover their losses from cartel behaviour?

**Mr Samuel**—Would you like to elaborate on that question? Are you concerned about the issue of third-party damages actions that might be undertaken?

**Senator JOYCE**—Yes, and also any other provision within that action by the cartel that has caused a financial detriment to the parties involved, especially small business.

**Mr Samuel**—At the present time we have at least one significant third-party class action being undertaken by a Melbourne firm of solicitors with—as I understand it from what I have read in the paper—thousands of subscribers to that action. One would expect that, if that action proceeded and was successful, those that had subscribed to the class action would be able to obtain some restitution and damages.

**Senator JOYCE**—How would you describe the level of competition in the banking sector at the moment?

**Mr Samuel**—Workably competitive, but there are some changes that appear to be emerging at the very early stages flowing on from the gradual emergence from the effects of the global financial crisis. There is no question that the GFC had a dramatic impact on the financial sector not only in Australia but worldwide. The impact of that, and of policy decisions taken internationally and in Australia, had an impact on competition in the financial sector. A number of participants in the sector worldwide disappeared. A number of other participants found it difficult to raise funds to be able to continue to compete in the way that they were prone to be competing prior to the GFC hitting, in particular the Lehman Brothers collapse that occurred last year. What we are starting to see at the moment is—and let me emphasise that it is at the very early stages—some emergence from the GFC and, as a consequence, some very early signs of the re-emergence of some of the fundraising processes and competitive processes that were in existence prior to the GFC.

**Senator JOYCE**—I read the comments in the paper that said you are going to take a tougher stance against banks. Is that the attitude of the ACCC?

**Mr Samuel**—I will refer to the comment, given that it was attributed to me. It said that we would be looking very carefully indeed at any future mergers in the banking sector. I was asked the question: what would be our attitude to a merger of one of the big trading banks with one of the regional banks? I said it would be subject to a very rigorous and vigorous inquiry indeed.

**Senator JOYCE**—That answers my next question, which was: what would that tougher stance involve? Would that basically cover that? Would the tougher stance involve further consolidation of the banking sector having a rigorous investigation process?

**Mr Samuel**—I think that is a fair summation.

**Senator JOYCE**—Have the banks been able to increase their market share during the financial crisis?

**Mr Samuel**—I think it is quite clear that the trading banks generally have increased their market share, particularly in the area of residential mortgages. It has primarily been, as I have described it in a couple of places, because of the movement into a hibernation state of the non-bank financial institutions. That is the area where there have been some government policy initiatives taken in terms of the Office of Financial Management in endeavouring to re-energise or reinvigorate the securitisation process for the funding of residential mortgage backed securities. A whole lot of changes have occurred. There was a traumatic series of changes that occurred last year when the GFC suddenly hit. There are now some changes that are occurring very gradually and at their very early stages as the market is trying to re-establish itself in terms of competition in the banking and financial sector. There is no question that the consequence of the GFC was that a large sector of the market just simply moved away or moved out of the market. It was unable to compete in the way that it was able to do so previously.

**Senator JOYCE**—Has the banking guarantee created distortions in the market?

**Mr Samuel**—I do not think that we can comment on that. It is not because we do not want to. It is just that we have not undertaken an examination of the effect of the bank guarantee or of other policy initiatives that have been taken as a consequence of the GFC. As I indicated, they are the sorts of things that would be the subject of a vigorous and rigorous analysis by us in the event that there was another significant merger that was proposed in the banking sector. It has not been necessary for us to examine that as we have had no mergers that have taken place since the banking guarantee was put in place.

**Senator JOYCE**—We have had concerns brought to us, especially by regional banks—and there are not too many of them left, so I hope I am not disclosing who they are—that they feel they have been disadvantaged by the banking guarantee and they are exposed to being taken over. Would it not be the case that by the time they basically throw the lifebuoy out that it is too late, that their position is so diminished that they have to go forward with it and we cannot stop it? I will put my cards on the table. I want to stop it, but I do not want them to get to that position to start off with.

**Mr Samuel**—I do not think that it is appropriate for us in this public environment to go into discussions that we have also had with a number of the banks, including a number of the regional banks. Suffice to say, though, that we are gradually accumulating a significant level of knowledge as to what is occurring in the banking sector at the present time, and what might be the potential prognosis in terms of competition. It is, of course, not for us to opine upon or to even attempt to examine some of the prudential issues. It is for APRA to deal with those issues and, of course, the Reserve Bank. Our focus is on competition. Suffice to say that we are endeavouring at the present time to inform ourselves a lot better as to the prognosis for



competition in the banking and finance sector, keeping in mind that in many respects a lot depends on government policy initiatives and, of course, how the markets emerge in Australia and also overseas from the impact of the global financial crisis.

**Senator JOYCE**—Is lack of affordable wholesale financing raising barriers preventing the entry of new banks into the market?

**Mr Samuel**—I am not sure about the entry of new banks in the market, but certainly wholesale funding is an issue that impacts upon the overall cost of funds to the banking sector. That brings back into focus the issue of the securitisation market in respect of RMBS. We also need to keep in mind that on top of the major trading banks and the three or four regional banks that we are dealing with in the market at the moment, we also have to deal with the quite significant, in terms of numbers at least, non-bank financial institutions—the mortgage originators, which as I have indicated have gone largely into hibernation but are starting to emerge from that as the impacts of the GFC, particularly in Australia, are starting to diminish.

**Senator JOYCE**—On the back of what Senator Colbeck was saying, has there been any increase in action that the ACCC has taken on environmental marketing claims?

**Mr Samuel**—Yes. We have taken several legal proceedings, and Mr Ridgway will be able to give you the specific number of court enforceable undertakings. We have gone on a major public compliance information process in relation to environmental claims at both commissioner and general manager level. We have been endeavouring to make it clear to those engaging in the marketing of products using environmental claims that, firstly, this is a new market. It is a new marketing technique. Secondly, it is beginning to have a significant impact in some areas of the market on either the exercise by consumers of a preference for one product over another or in some cases the payment of a premium price for a particular product. Those claims are becoming important. By way of anecdote, I remember attending a conference that was held in Melbourne just a little while ago, and they had flashed up on the screen a rolling series of advertisements—about 25 or 30 of them—containing environmental claims. I was sitting there waiting to speak and watching the advertisements and then asked if they could be turned off. I opined at the beginning of my speech by saying that, looking at those advertisements, I detected about 10 that were probably appropriate for us to investigate as they seemed to be excessive.

**Senator JOYCE**—This leads me to the next question. I watched you with keen interest on *Insight* in terms of the claims about farmers markets and whether farmers markets are actually farmers markets. Are you going to be pursuing that at all? The perception held by the community is that farmers markets are actually stocked from Australian farms. However, what we actually have in a lot of them is—while it certainly came from farms; you cannot get carrots from anywhere else—produce from farms overseas.

**Mr Samuel**—Again, without wanting to comment on matters that we may or may not be investigating, it is fair to say that when conduct is brought to our attention that might have a capacity to be misleading or deceptive to consumers it does not escape our attention and it sometimes results in some follow-up action.

**Senator JOYCE**—Did you have a yarn to that bloke after the show?

**Mr Samuel**—I am not sure that we necessarily need to have a yarn to that bloke. I had a chat to him before the show.

**Senator JOYCE**—I do not know whether you are prepared for this. I am going to ask about the Birdsville amendment.

**Mr Samuel**—I have it marked in red in my papers.

**Senator JOYCE**—I hope you appreciated my media release supporting Joe Dimasi. Last week Petrol Commissioner Joe Dimasi, whose name shall be extolled around the corridors of this place forevermore, expressed some concerns regarding a proposed petrol promotion by Coles. In his public comments Mr Dimasi referred to companies having substantial market share and selling below cost. I presume that Mr Dimasi was referring to the Birdsville amendment. Can you confirm that or not?

**Mr Samuel**—Yes, he was referring to the Birdsville amendment but also the other provisions of section 46 that deal with these sorts of issues.

**Senator JOYCE**—Section 46(1AA), no doubt. Can you take the committee through the ACCC's concerns with the proposed Coles petrol promotion?

**Mr Samuel**—The concerns were twofold. The first was that—as became evident in the public arena—the promotion was for a discount in petrol sales through Coles Express petrol outlets of up to 40c a litre, depending on the amount of purchase that had been made at a supermarket. For purchasers to get a 40c per litre discount required a purchase of \$300. The concern was on a whole range of areas relating to the application of Birdsville. Very few people would argue that Coles did not have a substantial market share, one of the first tests required in Birdsville. There are three other tests, of course, that are required to be satisfied. The first is: was there then a sale below relevant cost of petrol? That would be a matter that would ultimately have to be tested. The second is: was it for a sustained period? I think that is an area of significant uncertainty. Is three days a sustained period? Is two weeks a sustained period? Is one month a sustained period? Or if you had a series of three-day promotions with gaps in between, would that be a sustained period? We get into a quite interesting analysis there, which would ultimately have to be determined by the courts.

The final issue that needs to be addressed is whether there is a predatory purpose under the subparagraphs of (a), (b) and (c) of (1AA). What we indicated to Coles, without going into too much detail, was that we had concerns over the promotion that would require it to be investigated. Coles determined to withdraw the promotion, which as you know they did, and we are having ongoing discussions with Coles as to their future activity in this context.

**Senator JOYCE**—The 46(1AA) Birdsville amendment has been operating for a period now. Would you say that the ACCC is developing a better understanding of how the amendment works and a better understanding of the types of cases it may or may not be applicable to?

**Mr Samuel**—I think it is a bit early. I am sorry to disappoint you. It has, of course, been around for two years and six weeks, but I think it is a bit early to indicate at this point in time that we have a better understanding. The issues that I just raised of concern and at the same time complexity in relation to the proposed Coles promotion I think will not be resolved until

we actually take a matter to court and have it resolved by the Federal Court. Then I would have to say to you that the resolution may not provide a high degree of clarity in the general sense.

A court will look at the particular facts and circumstances. ‘Relevant cost’ is probably relatively easy to define. ‘Sustained period’ is going to depend in most, if not all, cases upon the relevant facts and circumstances, and there are various analyses of what ‘sustained period’ might be. Is it a period that is of such sustained length that it is likely to cause the sort of damage that is referred to in paragraphs (a), (b) and (c)? Then, of course, the ultimate test is the ‘predatory purpose’ test of subparagraphs (a), (b) and (c) of (1AA). That has been the subject of analysis over some 35 years with the fundamental requirements of section 46. That is a matter that has been the subject of analysis by courts as high as the High Court and that always is going to depend on the facts and circumstances.

**Senator JOYCE**—Since the last time we met at estimates, how are we going with Birdsville related complaints? How many have been received?

**Mr Cassidy**—Mr Bezzi was anticipating that you might ask that question.

**Senator JOYCE**—I went to the back of my questions to ask them first, because I thought you would think that I would go to that. I have noted it as question No. 1—

**Mr Cassidy**—I think he might be ready with the answer.

**Mr Bezzi**—At the time of our last appearance, on 22 June, I outlined that since 18 September 2007 the ACCC had recorded 188 contacts relating to predatory pricing. That comprised 175 alleging predatory pricing and 13 which sought information. Now the total figure is 237 contacts relating to predatory pricing, and that comprises 217 alleging predatory pricing and 20 seeking information about the provision. To save you doing the maths, since 22 June that is 49 additional contacts, with 42 alleging predatory pricing and seven seeking information.

**Senator JOYCE**—How many did you investigate in depth?

**Mr Bezzi**—None of the complaints received since our last appearance has progressed to in-depth stage at this point, and we currently have no in-depth predatory pricing investigations. I should tell you that we have instituted proceedings since we last met against Cabcharge alleging predatory pricing amongst other things, although these allegations relate to the period prior to the introduction of section 46(1AA).

**Mr Samuel**—In order to complete the statistics, we have about double the level of initial investigations in respect of predatory pricing matters that are referred to us than we have in respect of the average of all part IV complaints. The level of initial investigations is running at about double the level of that of what we do as an average for other part IV complaints.

**Senator JOYCE**—Has the ACCC taken any of these Birdsville amendment related cases to court?

**Mr Samuel**—Not yet, no.

**Senator JOYCE**—Has the ACCC issued guidelines specifically regarding the Birdsville amendment?

**Mr Cassidy**—It depends what you want to do with your time. You asked that question last time and I answered it last time. You asked it on notice and we answered it on notice. We can answer it again but the answer is, no.

**Senator JOYCE**—The answer is very simple: no. I am going to ask the same question that I asked last time and I will keep on asking it.

**Senator Sherry**—That is self-admission of tedious repetition.

**Senator JOYCE**—No, it is tedious repetition when it has no purpose. Why do we not issue the guidelines?

**Mr Samuel**—Mr Cassidy has given the answer in the past. It is not normally our practice to issue legal advice or guidelines as to the meaning of specific provisions of the act. As I have just outlined in respect of the most recent matter that involved Coles and the discount promotion, I am not sure that we can issue guidelines with any degree of certainty. We can say a ‘sustained period’ means whatever the court might determine a sustained period to mean in the relevant circumstances as submitted to the court. That is hardly a great deal of guideline to anyone.

**Mr Cassidy**—I pointed out to you last time exactly that. In answer to your question on notice we pointed out that we do not have any guidelines in relation to section 46 in total—for exactly the same reason.

**Senator JOYCE**—I must admit I prefer to ask questions in here rather than on notice. On notice they are succinct but—not just from you but from any department—technically evasive.

**Mr Cassidy**—What was that—technically evasive?

**Senator JOYCE**—Yes. I am saying that what you get back is a generic answer that is certainly correct as far as it goes, but does not give the detail that we are looking for and does not allow us the capacity to dig down. When are we going to pursue a case in court so that we can actually get some judicial guidelines?

**Mr Cassidy**—When we have one that we can pursue.

**Mr Samuel**—Remembering that we cannot pursue a case unless there are reasonable grounds for instituting proceedings. The difficulty with this is that there are a range of factors, which I have just described in some detail for you, so they were not technically deficient in the answer or technically evasive. I described in some detail the considerations that we undertook last week in respect of the Coles promotion. They illustrate very clearly indeed some of the complexities and the uncertainty associated with Birdsville. There should be no surprise that when there are new concepts introduced into the law such as ‘relevant cost’ and ‘sustained period’ those concepts will raise uncertainty and complexities. They certainly raised uncertainty in respect of 217 complaints that have been lodged since 18 September 2007, because we have been dealing with issues, for example, that the low price must be less than the relevant cost to the company of supplying the goods or services, whereas a significant feature of many complaints is that the complainant refers to pricing below their own costs rather than those of the alleged offender. Then they say that the alleged offender could not possibly have purchased at the cost that would have enabled their sale price to have

not been less than the relevant cost. There are a range of uncertainties and complexities associated with Birdsville, but let me repeat yet again—because I suspect the question will be put to us—far from there being a direction not to pursue Birdsville, Birdsville is well and truly on our radar screen. As I have indicated to you, at the initial investigation stage the percentage of total predatory pricing complaints received during the period that are subjected to an initial investigation is double that of the average that we apply to all part IV matters, which would seem to indicate that it is very bright on our radar screen.

**Senator JOYCE**—Is ‘sustained period’ not part of the government’s own amendment—section 46(4A)?

**Mr Cassidy**—Yes, that is correct, but that does not make it any clearer. It appears twice in the section, but it would not matter if it appeared half a dozen times, it still does not make it any clearer.

**Senator JOYCE**—So, it is a problem not just for 46(1AA), it is a problem for other sections of the act as well?

**Mr Cassidy**—No, it is a problem with 46. That is where the term appears. It appears in 46(1AA) and 46(4A).

**CHAIR**—We have two other senators with questions.

**Senator JOYCE**—I ask this one every time. Are you going to conduct an education program on Birdsville?

**Mr Cassidy**—It is a bit hard to conduct an education program when we are not exactly sure how the court is going to interpret the section. It is a bit like: why do we not put out guidelines? We do not put out guidelines because we do not know exactly what the section actually means and we can find ourselves in serious trouble if we put out guidelines that turn out to be wrong.

**Senator JOYCE**—Eighty per cent of restrictive lease terms protected them from competition inside shopping centres. Given that restrictive lease terms are a clear barrier to entry, would it not have been preferable to immediately remove all restrictive lease terms?

**Mr Samuel**—Yes, it would have been preferable to do an awful lot of things, but we have to operate within the law. I will not disclose to you, because it is not appropriate, the number of the 755 restrictive covenants and leases that would have potentially breached the law, save to say that we investigated all of them and we determined that there were a limited number that would have breached the law. I think it is fair to say that what we achieved in respect of the cessation of operation of the restrictive covenants and the phasing out of the remainder of those was a very significant achievement indeed in dealing with this potential barrier to entry to shopping centres and shopping malls.

We have now got to a position where at least in respect of Coles and Woolworths in the immediate future—that is going back some weeks now—the very substantial number of restrictive covenants have been removed and will no longer be enforced. As to the balance, they will be phased out over a maximum of a five-year period. I emphasise that is a maximum of five years from the commencement of trading of the supermarket operations concerned. I can disclose that we have only in the past week now gone out in generic form to every other

major supermarket operator in the country and said, 'We now want from you details of your restrictive covenants, because in our view they have to go as well.' We have also sought the cooperation of the landlords in doing just this. In our view, the restrictive covenants ought to be removed. They have no merit.

**Senator JOYCE**—Are the landlords going to make space available for new participants?

**Mr Samuel**—I saw that suggestion was made by someone who shall remain nameless. The suggestion was made that what we should have done was to require the landlords to make space available. If attention had been paid to our grocery inquiry and some of the evidence given there, it would have been clear that generally landlords have found that restrictive covenants do not inhibit their ability to admit new parties into their shopping centres. The decision that is made by the landlords is made on commercial bases. They have indicated that there are a whole range of reasons why they may decide to accept or reject an application from a particular trader, of whatever nature, to come into their shopping centres. They will mostly be concerned with the complementarity of the trader with other operations within the centre and in particular the ability of the trader to draw significant pedestrian or customer traffic.

The observation was made by a number of landlords, who gave evidence to us during the course of the grocery inquiry, that there were certain of the so-called independent grocery operators that they would simply reject applications for admission to their shopping centres because, to use their statistic, they tended to draw about one-third of the customer or pedestrian traffic of the major supermarket chains and they were not going to waste square metres of their shopping centre space in allowing those competitors into the shopping centre. I do not think there would have been any basis at law or on any basis at all for the ACCC to have said to landlords, 'You shall make space available in your shopping centres' for traders that frankly do not suit their business plans.

**CHAIR**—I will go to Senator Eggleston. I will come back to you, Senator Joyce.

**Senator EGGLESTON**—I have cut down my questions to two, given the time. The ACCC has given a provisional decision to permit joint marketing of gas in Western Australia by the Gorgon project partners while it is considering a decision on authorisation in the public interest of project partners. Do you want to make some comment on that, because the WA gas market is a very unique one, of course, very different to the eastern states, and joint marketing has worked very successfully?

**Mr Samuel**—It is not a provisional decision. It is a draft decision, which is going through the appropriate processes. I will pass to Mr Chadwick and he can give you a more detailed response.

**Mr Chadwick**—We put out a draft decision proposing to permit the joint marketing for the Gorgon joint venture, and the main reason there was that we formed the view, based on our consultations, that that would be the most likely way that would bring the gas on sooner and quicker, that is, by enabling the joint venture to deal with the risks associated with marketing gas into the market. We are consulting on that. We have submissions from the DomGas Alliance. We are seeking views back from Gorgon and we are expecting the final decision in December.

**Senator EGGLESTON**—This is interesting. There is an energy security issue there in that the gas from the North West Shelf comes down in a single pipeline. I believe it is being duplicated. In the interests of competition in the Perth and south-west market, does the ACCC have any capacity to direct that Gorgon should construct its own pipeline to Perth so that we reduce the vulnerability of south-west industry to another incident like the Varanus gas explosion?

**Mr Samuel**—No, it is not within our power.

**Senator EGGLESTON**—Have you had any discussions with the Western Australian government about energy security in Western Australia and the need for competition?

**Mr Cassidy**—That is something that the Department of Resources, Energy and Tourism would be pursuing rather than us.

**Senator EGGLESTON**—Another matter I would like to raise with you is bank mergers. This committee has done an inquiry into bank mergers. Is the ACCC happy with the protection of customers' and consumers' interests in recent bank mergers, given that banks such as Commonwealth Bank and Westpac have taken over smaller banks, had single administrations but let the banks operate separately, and yet there seems to be a time limit on that.

**Mr Samuel**—The law that we have to deal with, of course, is section 50 of the Trade Practices Act, which gives us the ability to oppose a merger if it is likely to lead to a substantial lessening of competition in a market. In respect of the two bank mergers that you are referring to—that is, the Westpac-St George merger, which took place in the middle of last year; and the Commonwealth Bank and BankWest—those are the tests that we apply, that is, is there likely to be a substantial lessening of competition in the market? There is a range of factors that one takes into account there, including the availability of choice, for customers to be able to exercise that choice to suit their convenience and to suit the level of service that they require. Those factors are taken into account.

There is a range of other factors, as I think you are aware, and I am happy to repeat at length—although I do not think time will permit—the public competition assessments that we put out in respect of both those mergers. Suffice to say, though, that in both cases we formed the conclusion that the mergers were not likely to lead to a substantial lessening of competition in the context of section 50 of the Trade Practices Act.

**Senator EGGLESTON**—A lot of customers think that in fact it has in many ways. Do you have a power to review these decisions? Or is it that once they are made they are made? Can you review them and order divesting in two or five years if you find that competition has been substantially reduced?

**Mr Samuel**—It would be very unusual indeed if we were to review a decision in the absence of our having been misled by the merging parties during the course of the consideration or the review of whether or not the merger ought to be permitted. You can imagine some significant issues if we were to simply turn around in two years time and say, 'Look, I think a mistake might have been made in that decision and therefore it ought to be reviewed and we ought to endeavour to undo the merger.' We would have to go to court to achieve that and I doubt that the court would give us anything but fairly short shrift.

There will always be views expressed by customers as to the service levels they are receiving from banks and as to the interest rates they are paying and the bank fees and charges they are occurring. Of course, as I indicated before in some quite detailed responses that I gave just a few minutes ago, we have gone through a quite extraordinary and, certainly in the past 50 years, unprecedented series of events that has affected the financial system throughout the world and has affected Australia, although fortunately not with as significant an impact as we saw elsewhere in the world. That has its own impact on competition, which I have described before, on interest rates that are charged by the trading banks, and on the availability of choice and the like. They are issues that we are focusing on at the moment, particularly with a view to drawing some information together as to the future prognosis for competition in the banking sector. Then again, our role in that matter will only be to be able to deal with those issues and competition issues in the event that a significant merger comes our way.

**Senator EGGLESTON**—I think you said at the time that you permitted the BankWest-Commonwealth Bank merger, because of special circumstances, namely, that the bank might close otherwise and its parent bank was said to be—

**Mr Samuel**—I will correct that in a moment. It was not that it would close but rather—

**Senator EGGLESTON**—And the parent bank in Scotland was in trouble. But of course, as you have already said, that crisis has passed and one would have thought that, if there were a view that there was a significant detriment to customers flowing from that merger, I would be surprised if there was no capacity to reconsider it.

**Mr Samuel**—Let me correct that. I did say that the—

**Senator EGGLESTON**—I apologise if I misunderstood.

**Mr Samuel**—That is all right. But I think it is appropriate for the record that we do correct it. What I said was—and it is quite clear in our public competition assessments; I do not want to verbal what we have put into writing in the PCA—that essentially the position that we had in respect of the BankWest merger was that BankWest was an aggressive competitor in the west and was becoming an aggressive competitor that was reaching out to the eastern seaboard, but its ability to compete aggressively was dependent upon some very cheap wholesale funding that it was receiving from its parent, HBOS, in the UK, of the order of about \$16 billion of very cheap wholesale funding. The advice that we received was that that cheap wholesale funding was going to be removed and in the event of the removal of that cheap wholesale funding it could have been replaced potentially by other wholesale funding but certainly not at the level in terms of cost that BankWest was enjoying at that time. As a result, BankWest, in our view, was going to cease to be the aggressive competitor that it was both in the west and potentially as it was moving over into the eastern seaboard. Therefore, it was not possible for us to say that the acquisition of BankWest by CBA would substantially lessen competition. For the competitive dynamic to have continued there would have had to have been a substitution of that wholesale funding at that very advantageous cost to BankWest by some other party, and there was no indication that it was available then or that it would be available now or even in the foreseeable future.



**Senator EGGLESTON**—We have seen a great consolidation in Western Australia of financial institutions. What was known as the Perth Building Society was taken over by Westpac, Town and Country Building Society became Town and Country Bank, taken over by ANZ, and so on. BankWest used to be the Rural and Industries Bank, the R&I Bank. Given that banks have grown out of building societies and the difficulty of those sorts of institutions surviving and new ones being established in the current atmosphere, what realistic prospects do you see for new banks developing in Australia, given the huge strength of the major banks?

**Mr Samuel**—I do not think that we have the knowledge, information or ability to be able to give you an informed prognosis on that, but I want to reiterate what I said before. We should not just focus on the banks as the source of funding for residential mortgages. If you examine some comments I have made in more recent times in this area, it was quite clear—and the Reserve Bank of Australia has produced charts and statistics to demonstrate—that the true competitive tension in the residential mortgage market, which I think is the area you are focusing on as distinct from the corporate institutional market—

**Senator EGGLESTON**—Yes, it is.

**Mr Samuel**—was coming from the mortgage originators and the non-bank institutions, which as I have indicated earlier have gone largely into hibernation but are starting to emerge from that hibernation now. It was quite clear—and the RBA statistics will demonstrate this—that the standard variable rate being provided by the non-bank financial institutions, NBFIs, was almost consistently lower than the standard variable rate being charged by the major trading banks. If we consider the re-emergence of those NBFIs, particularly into the residential mortgage market—and a lot of that will depend upon sources of funding, potentially the re-emergence of the securitisation process—we potentially will see some competitive tension brought back in a serious way into that particular market. We are only seeing some very early signs of that at this stage.

**Senator EGGLESTON**—Then there is securitisation for the business sector. Thank you very much.

**Senator BUSHBY**—Are you aware of the review of the ACT supermarket competition policy conducted by John Martin?

**Mr Samuel**—Yes.

**Senator BUSHBY**—Was the ACCC involved at all in the preparation of this report?

**Mr Samuel**—No.

**Senator BUSHBY**—Any vetting, editing or commenting?

**Mr Samuel**—No.

**Senator BUSHBY**—Would it have been possible for the ACCC to have been consulted?

**Mr Samuel**—It always would have been possible, but I do not think—

**Senator BUSHBY**—In the way you operate, you would have been free to assist?

**Mr Samuel**—It would only have been if Mr Martin had chosen to seek our views and to take them into account but, no.

**Senator BUSHBY**—Do you think you could have added some expertise on competition issues?

**Mr Samuel**—That would be arrogant on our part, and we would have hoped that Mr Martin, having been a commissioner of the ACCC for 10 years, would have had sufficient expertise himself.

**Senator BUSHBY**—How important are forces other than the two major supermarkets, such as Metcash, to maintaining competition in the grocery market?

**Mr Samuel**—We get into two areas of competition, and this goes to some of the issues that we discussed at length in our grocery inquiry report, which was issued in July last year. We demonstrated through the course of that inquiry that the independents provide competition in terms of convenience but, except in very few cases, they provide little competition in terms of price. I need to go into this in detail, because it is important that we understand this.

Some of the larger Supa IGAs do, in certain circumstances, provide some price competition. In some areas Supabarn provides some price competition, but in other areas it does not. Franklins, since it broke away from the Metcash wholesale chain, is proving to be a potential price competitor at price competitive levels relative to the major supermarket chains. In some areas as well Foodworks does, but the large bulk of those supermarkets that are supplied by Metcash do not provide price competition to Coles and Woolworths.

**Senator BUSHBY**—What percentage of the wholesale market for grocery items does Metcash have?

**Mr Samuel**—Outside Coles and Woolworths, and leaving aside I think about 97 stores that Franklins has in New South Wales, the rest are 100 per cent supplied by Metcash. They have a monopoly on wholesale supply other than Franklins.

**Senator BUSHBY**—I think Tasmanian Independent Retailers probably—

**Mr Samuel**—Yes, I beg your pardon. I am sorry. I should not have left out Tasmania. I meant mainland.

**Senator CAMERON**—It is always a big mistake to leave out Tasmania.

**Mr Samuel**—I am trying to climb out of this hole.

**Senator BUSHBY**—Some concerns have been raised with me about this report—I have a copy of it here—particularly in respect of recommendations 6 and 8. I find it quite interesting in view of your comments earlier in respect of landlords making commercial decisions to go to the majors because they attract more foot traffic than the non-major operators. Recommendations 6 and 8 individually—but both of them—essentially seek to force landlords to exclude the majors and Metcash, specifically naming Metcash, from their operations and basically limit the commercial decision that they might be able to make to actually choose who they might have as tenants. Are you aware of any regulations or laws at a local government or other level in Australia and any other market that seek to exclude that kind of commercial decision being made?

**Mr Samuel**—No, I am not aware of them, but we have not studied it carefully. I would have to say that they are recommendations that would not have been made had the ACCC

prepared that report. How do I put this in as tactful a way as possible? They are recommendations that would not appear to be consistent with the findings of the ACCC in its grocery inquiry report of 2008.

**Senator BUSHBY**—Is it consistent with the Trade Practices Act?

**Mr Samuel**—These are ultimately policy decisions that would be taken by the ACT government, so it is not a matter that the Trade Practices Act could interfere with.

**Senator BUSHBY**—I understand that. That is fair enough.

**Mr Samuel**—Sorry, I was going to phrase your question for you.

**Senator BUSHBY**—Is it inconsistent with the principles of the Trade Practices Act?

**Mr Samuel**—Those recommendations would not be consistent with the principles of competition and opening up markets to competition.

**Senator BUSHBY**—What about the recommendation that essentially would render a small business or a family business that does not have 10 years of experience running a supermarket ineligible to be allowed to operate a supermarket?

**Mr Samuel**—It would appear to be an artificial constraint that would not be supported by any of the principles of competition that we would be advocating. I should say that these are ultimately matters of policy for government. You would be aware that the minister for competition, Dr Craig Emerson, is currently addressing as part of the COAG process this whole issue of planning laws and the freeing up of planning laws to allow a greater potential entry into greenfield sites of supermarkets, again to open up competition and to lower the barriers to competition in the supermarket industry. I think it is a matter you should address to Minister Emerson, but if we were delivering that report to Dr Emerson in the context of opening up planning laws around the country, those recommendations would not have been consistent with our findings.

**Senator BUSHBY**—That is really why I am asking you the questions and it is probably all I need to hear from you. What concerns me particularly in the context of COAG is that if you have one jurisdiction that is talking about doing these sorts of things it can spread, and I am pleased to hear your views and that that would be the view you would be advising to the minister. I wanted to ask about Woolworths and hardware stores. I understand that you have issued an ‘issues of concern’ statement regarding that. Can you outline where, from your process perspective, that is likely to go from here?

**Mr Samuel**—The statement of issues has been issued. We seek responses to that statement of issues. The purpose of the statement of issues, of course, as you would be aware, is to try to provoke more focused information from stakeholders and other interested parties on the issues that are referred to in the statement of issues document. We have highlighted three issues there, one of which, as we describe, is an issue of concern, and another which is an issue that may give rise to concerns, and another of which is to indicate that it is an issue that is unlikely to raise concerns.

**Senator BUSHBY**—A red light, an amber light and a green light.

**Mr Samuel**—Yes, red, amber and green; that is right. Our position is this: we will receive submissions in respect of the statement of issues. It will then be referred back to the commission and, as things currently stand, the commission intends to make a decision in respect of that particular merger transaction on 11 November.

**Senator BUSHBY**—Thank you.

**CHAIR**—I thank the ACCC for coming in this evening. We enjoy seeing you every time.

**Mr Samuel**—We enjoy being here every time.

**CHAIR**—I am sure you do. I would now like to call the Australian Office of Financial Management.

[8.39 pm]

#### **Australian Office of Financial Management**

**CHAIR**—I welcome the AOFM. Do you have an opening statement?

**Mr Bath**—No, we do not.

**Senator BUSHBY**—Welcome. It is nice to see you back again. What is the amount of Australian government securities outstanding in notes and bonds?

**Mr Bath**—As of last night it was \$109.7 billion and today we issued a total of \$900 million in Treasury notes. I do not believe there were any maturities today, so that would be about \$110.6 billion. That is as of today.

**Senator BUSHBY**—So it is about as good as you get.

**Mr Bath**—Yes, assuming that there were no maturities—which I failed to check, I am afraid, but as of last night it was \$109.7 billion.

**Senator BUSHBY**—What are the recent trends in yields on the bonds and notes that we are issuing?

**Mr Bath**—Over the last couple of years yields have fallen. They bottomed about January or February this year. The yield on our then long bond got down to about four per cent per annum. Since then yields have risen. Yesterday we issued a 2020 bond—so the same bond that was down at four per cent at the beginning of the calendar year—at around 5.65 per cent, I believe.

**Senator BUSHBY**—Do you maintain records of yields in a graphical form?

**Mr Bath**—We keep records in a tabular form. Certainly we keep records of where we issue the bonds, the yield that we issue them at. We can obtain information from Reuters or Bloomberg as to where they traded in the market each day—so, yes, effectively.

**Senator BUSHBY**—I was just wondering, if you had something like that that you produced, whether you could provide that on notice.

**Mr Bath**—Yes, say 10-year bond yields—

**Senator BUSHBY**—Yes, for all the different variations of—

**Mr Dodgson**—The Reserve Bank of Australia on their website publish each day the yields for all Commonwealth government bonds on issue and Treasury notes.

**Senator BUSHBY**—I have actually signed up to utilise that. I get an email.

**Senator JOYCE**—What did you say?

**Mr Dodgson**—The Reserve Bank of Australia on their website publish each day the yields for all Commonwealth government bonds on issue and also Treasury notes.

**Senator BUSHBY**—Are you basically saying, ‘Go off and draw your own graph’?

**Mr Dodgson**—That is right. The information is readily available to the public.

**Senator BUSHBY**—I am not actually specifically asking you to go off and do it. I was just wondering whether you had that in that form.

**Mr Bath**—We have got the information. I am happy to draw you a graph.

**Senator BUSHBY**—I have really been meaning to ask my staff to do it because I am aware that the information is out there, but I have not done it. I do not necessarily want to belabour this point.

**Mr Bath**—If we can just be a bit more specific: there are 13 bond lines—

**Senator BUSHBY**—I would be interested in all the bond lines.

**Mr Bath**—Each bond line?

**Senator BUSHBY**—Yes.

**Mr Bath**—And you would like the daily yields going back how far?

**Senator BUSHBY**—Probably about two years.

**Mr Bath**—For those that have been around two years, we can do that.

**Senator BUSHBY**—Thank you. What is the value of state government debt currently underwritten by the Commonwealth at this point in time?

**Senator Sherry**—These questions were asked last night to Ken Henry. We had those figures and the figures we have given so far—is it Fiscal Group?

**Senator JOYCE**—It was the Fiscal Group.

**Mr Bath**—Yes, Commonwealth-state relations in Fiscal Group this morning I think would probably—

**Senator JOYCE**—It was \$170 billion with \$57.5 billion actually underwritten by the Commonwealth, if I remember correctly.

**Mr Dodgson**—That \$57.5 billion is my understanding of the state amount that has been underwritten by the Commonwealth. That was as at 30 September.

**Senator BUSHBY**—What does the AOFM believe will be the likely trend in relation to the value of contingent liabilities from the underwriting of state government bonds? Will it go up significantly over time?

**Mr Bath**—The part of the government’s balance sheet that the AOFM administers does not include the state government bond guarantees. To the extent that state governments continue to take out guarantees on their debt, then that contingent liability would grow. If they choose to retire the guarantees then it would cease growing. That is all I can really offer on that.

**Senator BUSHBY**—Is the register of holders of Australian government debt currently available for public scrutiny?

**Mr Bath**—No, it is not. The ABS does publish some information generically on foreign owners of government debt, but we have not started publishing the register.

**Senator BUSHBY**—But you will be publishing that at some point?

**Mr Bath**—In our annual report, which we tabled on Monday, our CEO in his report addressed this issue. May I be permitted to quote from that?

**Senator BUSHBY**—Yes, certainly.

**Mr Bath**—The CEO's report states:

The *Guarantee of State and Territory Borrowing Appropriation Act 2009* (the Guarantee Act), which was enacted in June 2009, includes provisions which require the AOFM to establish, and publish on its website each quarter, a register recording the beneficial ownership, by country, of all securities issued by the Commonwealth. The register must also record the beneficial ownership of any issuance by Australian States or Territories that is guaranteed by the Commonwealth. The AOFM must include in the register a statement of the Office's opinion as to the domicile of the beneficial owner of securities if nominal ownership is registered in a country other than the actual domicile.

These provisions were introduced as an amendment to the legislation in the Senate. The Government did not support the amendment there on the grounds that it was impractical and would not create greater transparency. However, the Government ultimately accepted the amendment in order to achieve passage of the Act.

The AOFM is consulting with the Treasury and the Australian Bureau of Statistics to establish whether there is a practicable way of providing better information on bond holdings. However this would need to take into account the following concerns:

- Many non-resident investors with large holdings of fixed securities are unwilling to disclose details of their investments for commercial reasons. Some public sector investors, such as central banks and foreign reserve managers, also have policy reasons for maintaining confidentiality about their activities.
- Such investors are likely to withdraw from securities where their holdings are required to be revealed. This would make it more difficult, and more costly, for the Commonwealth to issue securities and for States and Territories to issue guaranteed debt.
- The Guarantee Act contains no provisions to ensure participation by State and Territory governments that would be disadvantaged by its operation.
- The AOFM is unlikely to be able to form an opinion on the domicile of beneficial owners of securities where the nominal owners do not cooperate in identifying them.
- The Act contains no provisions to compel the provision of information by beneficial or notional bond holders.
- No provision has been made for additional resources for the AOFM to undertake this new function.
- No other country has similar requirements.

The Guarantee Act provides that the proposed public register must be in a form to be prescribed by regulations. No regulations have yet been made. The AOFM considers that this should not be done until a practicable set of arrangements has been devised that meets these concerns.

**Senator BUSHBY**—In that last bit, ‘The AOFM considers that this should not be done,’ are you talking there about the regulation?

**Mr Bath**—That is correct.

**Senator BUSHBY**—There should be no regulation until those concerns have been addressed?

**Mr Bath**—That is our view. If we are not able to comply then we do not think there should be regulation forcing us to. We have since sought legal advice on how we would go about forming the sorts of opinions that the legislation has asked us to form. In particular we are concerned that we may cause some sort of financial damage or otherwise in releasing information, and we would be concerned about the contingent liability that that would create.

**Senator BUSHBY**—Financial damage to the people who are purchasing the security?

**Mr Bath**—That is correct. It can happen when a large investor who would prefer to remain anonymous takes a large position in our market. This is done mostly so that they are not what we call ‘gamed’ by the market or, if you like, once they find out that there is a large player in the market they will tend to try to push the market against that player in the hope that they will capitulate so that they can take some sort of financial advantage from that. In the event that we effectively ‘outed’ a large investor by virtue of this register our concern would be that there would be a potential trigger for some sort of recourse against the Commonwealth as a result of that. So we have sought legal advice on that, among other things.

**Senator BUSHBY**—I might leave that there. I am sure that Senator Joyce will have some further questions on that when he gets to it.

**Senator Sherry**—They are the issues that the AOFM, the government—and we touched on it yesterday—and the Markets Group face in attempting to comply with this amendment. Once AOFM and others have concluded their deliberations and given advice to government, obviously the Treasurer will make an announcement as to how we best deal with the amendment of the Senate.

**Senator BUSHBY**—I move on to Aussie infrastructure bonds. Since reports back in July this year wherein your submission to the implementation study for the NBN plan, you stated that no information was sourced from this department. Has the AOFM since had any contact or been asked to undertake any action in relation to the government’s issuance of bonds for the government’s NBN plan?

**Mr Bath**—As I understand it we have not had direct contact from the task force or the group that is charged with undertaking the scoping study of the NBN, but we have regularly discussed with Treasury, which I believe has representation on that task force, how such a product might work. So to the extent that Treasury is part of that task force and Treasury has discussed these matters with us then, yes, we have implicitly discussed it with the task force, but as to whether we have sat in a room with members from other departments such as broadband and communications then, no, we have not had such meetings.

**Senator BUSHBY**—Does that mean that the issue is advancing? ‘Issue’ is probably a confusing word, but you are actually advancing the planning for the provision of the inclusion of Aussie infrastructure bonds in your future issuance plans?

**Mr Bath**—It is advancing in the sense that, whenever Treasury has asked us for advice on how certain products might work or be structured, we have provided that advice. As to how the deliberations of that task force or that group are continuing, I am afraid I am not a member of that task force so I am not able to say.

**Senator BUSHBY**—At this stage the AOFM is not preparing to issue Aussie infrastructure bonds?

**Mr Bath**—Not in the near term, no. We have no prospectus—

**Senator BUSHBY**—Are you basically waiting on Treasury?

**Mr Bath**—My understanding is that, in deciding to build a large bit of infrastructure like the NBN, you would work out what you wanted to do first and then work out how you were going to finance it as a secondary, albeit not trivial, exercise. We are able to provide comfort to government that we envisage no problems raising the funds for that order of magnitude over the time span involved. The detailed specifics of what an infrastructure bond may look like are secondary to giving the government and that committee the comfort of knowing that the finance can be arranged when it is required.

**Senator BUSHBY**—In relation to the residential mortgage backed securities, the \$8 billion is basically spent, I understand?

**Mr Bath**—It is very close to it. I have the exact number if you are interested.

**Senator BUSHBY**—Yes, that would be appreciated.

**Mr Bath**—As at last night we had purchased or committed to purchase \$7.53832 billion worth of securities. In fact yesterday we priced about \$56.4 million worth of securities. It was actually a very positive development. We were intending to invest substantially more than that, potentially up to around \$250 million. However there was third party investor interest so that we were happy to be scaled back to \$56 million, so it was quite a positive development that we did not have to invest the full amount. There is one remaining scheduled transaction from this initiative. We had anticipated that that would take us up to the \$8 billion. However as a result of yesterday's good fortune—I guess it is not a bad problem to have—

**Senator BUSHBY**—The longer it is before you can actually complete the \$8 billion, the better, really.

**Mr Bath**—That is right, so I guess we are now faced with a decision as to whether to roll additional funds into the final transaction that we have mandated, which is plan A, in order to use up the \$8 billion mandate.

**Senator BUSHBY**—The government has flagged a possible further \$8 billion to an RMBS extension of your program but in a slightly different way—with a few different changes. Presumably you have been consulted on that?

**Mr Bath**—Yes, I have been party to those consultations.

**Senator BUSHBY**—How might a liquidity facility of the sort that the government is talking about work?

**Mr Bath**—There are a number of permutations that are being explored. Ultimately there is a decision for government as to whether any of those options are worth pursuing. However,



we have found that the market has been quite nervous, not about the underlying credit quality of these assets but about the liquidity. Because of the distressed sellers that were prevalent, say, 12 months ago when the GFC was, let us say, in full flight, the investors were nervous about putting their hands up to buy anything because even at ridiculously wide margins that were available in the market there was always the risk that the price would be even lower or the margins wider the next day. So you can understand that they would not want to put their hand up today only to get it shot off the next day on their market-to-market revaluations that they are subject to.

The market got itself into a situation where people were very nervous about liquidity and being able to find a buyer at a reasonable price. What has happened since then is that the market has stabilised. The secondary margins have come in quite substantially now, whereas nearly 12 months ago when we commenced the initiative we were typically buying longer dated tranches in each structure. We would be typically by ourselves; there would not be another third party investor in at the level because we were pricing them at levels that we thought kept the originator in the game, as it were, and able to compete with other providers of mortgages. Therefore those margins were narrower or the prices higher of those securities than they could obtain in the secondary market. Now we are finding that the secondary market margins are coming in.

When faced with the choice as to how best to utilise the next \$8 billion, the question has been asked: rather than just one avenue, which is to continue to act as a cornerstone investor, can we facilitate that continued narrowing of margins or the continued improvement in prices for these securities through other means? These other means are the subject of consultation with market. The sorts of things that we are exploring are potentially showing a level that we are happy to buy these securities at and potentially offer to repurchase them from other investors who come into the market in our place. Instead of a direct investment you can think of it as a contingent investment so that you give the market the comfort that if they do buy this security the government will be willing and ready to purchase it off them at a reasonable price should they so need it. That is what is being explored now.

The risk of doing this sort of thing is that the market becomes welded onto you so it becomes counterproductive when the program has finished and you unravel all the good work, so what Treasury and we have to advise government on is whether we think that it is worth pursuing this or whether, given the success of the program to date, we are better off just doing more of the same in order to march margins in.

**Senator BUSHBY**—Have you advised government on your view of that at this point?

**Mr Bath**—Not at this point, no.

**Senator BUSHBY**—Have you done any assessment of the potential benefits of guaranteeing RMBS with a AAA rating?

**Mr Bath**—The AOFM has not, no. I might just add, though, that the guarantee is a useful product when you are concerned about the creditworthiness of a product, but no-one is genuinely concerned about the creditworthiness of Australian prime mortgages.

**Senator BUSHBY**—We had evidence of that in the inquiry that this committee held into the guarantees, which indicated that certainly the various stakeholders in the market thought

that that would actually help return confidence and increase activity in the securitisation market.

**Mr Bath**—Well, it is speculation.

**Senator JOYCE**—You said just then that no-one in the market is genuinely concerned about the creditworthiness of prime mortgages.

**Mr Bath**—That is correct—in Australia, I should say.

**Senator JOYCE**—I hope they never are and I am not trying to inspire it, but Australia has recently gone through a housing bubble that never really popped, and now the bubble is expanding again. At some point in time there is going to be a correction in this.

**Mr Bath**—Do you want me to respond to that?

**Senator JOYCE**—I am basing that on opinions by a professor from the University of Missouri who has been out here lately. There is nothing really particular about our housing market; it is not unique from other housing markets in the world that have experienced a major housing bubble. It is just that theirs has popped and ours has not as yet.

**Mr Bath**—I think a key difference is that their houses are more likely to have people living in them or who own them who are employed than other countries, so I think that is probably a key difference across the globe. Another reason is that, where people may have been concerned about the level of household indebtedness, I think statistics will show that over the last 12 months the household sector has probably gone to some length to improve their balance sheet. I should point out I am not an economist and I am not an expert on the balance of the household sector—

**Senator JOYCE**—But you would have to see the point I am making that 10 times gross salaries is an excessive house price and 40 per cent net income is excessive debt weighting. That is pretty generic.

**Senator Sherry**—These are issues for the macro policy group, and to some extent you did touch on them. I do not think it is fair to press the witness when he has indicated he does not have policy responsibility in this area.

**Senator JOYCE**—Fair enough. Let us talk about something else. It was given as evidence that \$170 billion was the exposure of the state, and that in itself is an incredible number. It really does not matter if you split the country up into 100 different states; you would still have the issue of government debt, and it has to be seen as an issue. Obviously there is not the possibility of letting a state disappear or be sold off. However, I am a little bit fascinated by that number of \$170 billion because it does seem to be too small. I base that on the debt of Queensland, which we know is about \$85 billion, and the debt of New South Wales, which I think is about \$75 billion—and you can easily correct me if I am wrong here. Do you have a break-up of the states and how we came up with that figure of \$170 billion?

**Mr Bath**—I would imagine that we have added it up. I am sorry; I do not mean to be facetious—

**Senator JOYCE**—I hope you have. That would be very bad evidence to give us if we found out you did not.

**Mr Bath**—I am not sure that we have got \$170 billion, though. Did we provide that evidence?

**Senator JOYCE**—No, Fiscal Group did.

**Senator Sherry**—But there is a distinction between debt and securities on issue. I think the other point that was made this morning was that there were only two states—obviously two large ones, Queensland and New South Wales—who had come to rely on the government guarantee.

**Senator JOYCE**—And that made up the \$57.5 billion. They relied on it not for the total amount but only to \$57.5 billion. But, with regard to the total debt of the states, I think Queensland was about \$85 billion and I think New South Wales was about \$75 billion, so there is \$160 billion to kick us off. I think Victoria is around about \$40-something billion. That is about \$200 billion. I cannot work out how we come up with this \$170 billion figure.

**Senator Sherry**—I think, again from this morning, it was agreed to take on notice to double-check the figures so, rather than us trying to decide—

**Senator JOYCE**—I am just thinking that these gentlemen might have the numbers here.

**Mr Bath**—I do not think I do, to be honest. I do not have that number. To the extent that we were investing in state government securities over the last 12 months when we were issuing bonds to keep the government bond market alive and vibrant, we were investing the proceeds in state government bonds. We followed the amount of debt they had pretty closely, but we do not have a policy role here, which I would defer to—

**Senator JOYCE**—But do you happen to be aware of what the debt is around the nation?

**Mr Bath**—In a micro sense we do because we do not want to trip over each other and find that we are—

**Senator JOYCE**—Competing in the same market—

**Mr Bath**—competing with a bond tender on the same day, for example. So we tend to flag pretty clearly what our intentions are. The market knows that we come to the market to issue a bond just about every Wednesday or Friday and we issue T notes just about every Thursday, so the states can work around that and by and large they have been. Occasionally they will say: ‘Look, we are planning to issue a new bond line in this part of the yield curve so it might be a long-dated bond. Would you pay us the courtesy of perhaps giving us a bit of clear air?’ And, when they do that, by and large we will give them that clear air. At the micro level we do make sure that we keep out of each other’s way to the extent we can.

**Senator JOYCE**—Is there any great reason for the secrecy? I ring your office continually because I do have a fascination about where it is all going. Usually there is a sense of some sort of hesitance to give us a transparent view of what the position is on that day. People keep on referring my staff to the last figures that were printed, and I say, ‘No, I want to know what they are right now.’ Why can we not have that sense of transparency?

**Mr Bath**—I think we do. We conduct discrete bond tenders and T note tenders and the number changes on a regular basis. We have maturities of bonds and T notes on a regular basis as well. To the extent that any staff have come across as being hesitant, firstly, I would

apologise but, secondly, I think there is a genuine desire to have the most accurate number that they can and, given that on a day-to-day basis it changes, they want to make sure that they give you the right number.

**Senator Sherry**—I think usefully there is a protocol about speaking to public servants in terms of ministerial knowledge, and this is the first I am aware that you have made direct attempts. I am sure we could have organised an effective daily communication on this issue for you. I do not know whether you have spoken to the Treasurer's office about this.

**Senator JOYCE**—They probably would have been the first point of call.

**Senator Sherry**—I accept your genuineness and your interest in these matters. I will take this issue on notice and follow it up with the Treasurer's office and see what we can organise in terms of a—

**Senator JOYCE**—We get the figures anyhow here. There is nothing that can be hidden or that we cannot dig up in the end. It is just that I like to follow it.

**Mr Bath**—There are no secrets. If we kept our bond tenders a secret the big risk would be that no-one would know about it and it would be pretty hard to sell those bonds.

**Senator JOYCE**—It is the Australian government securities and outstanding notes and bonds. There definitely seems to be a hesitancy in delivering that gross figure.

**Mr Bath**—I have seen some of these phone calls come through. I think that you are calling the general inquiries number and you are probably talking to somebody who is pretty junior and perhaps a little bit daunted at the prospect of making a mistake. I think they are trying to find someone who can give them an accurate number. These numbers are not a secret. They are well known or able to be obtained by a number of people in the office, but if you ring the general inquiries number then the person you are talking to is not going to be an expert in debt management.

**Senator JOYCE**—The current yield that you suggested was 5.6 per cent on a 2020 bond; is that correct?

**Mr Bath**—As at yesterday, or thereabouts, yes.

**Senator JOYCE**—The Fiscal Group mentioned 4.5 per cent as the yield curve. What yield curve were they referring to?

**Mr Bath**—I think they were referring to an average rate at which we have issued that over the period since the budget, which sounds about right. Somewhere between 4.5 per cent and five per cent would be my estimate.

**Senator JOYCE**—There is the problem, because I asked them for the latest figure, not the average.

**Mr Bath**—I could be wrong. I can tell you that 4.5 per cent would be right if the question was: what is the yield on about a two-year bond? I can show you a curve of the shape of the yield—

**Senator JOYCE**—So 5.6 per cent is where we are—

**Mr Bath**—That is for a 2020 bond. What is our next bond to mature? It is in August 2010, so it is probably trading at about 4.5 per cent, up to 5.66 per cent for our longest bond, which is a 2021. But that fluctuates quite a bit. It has been lower, and in recent weeks the bond market has sold off, so those yields have risen a little bit, so it is possible that the testimony that was given earlier by my colleagues in Fiscal Group was referring to an average, or it might have been referring to a different bond of the curve or it might have been slightly out of date.

**Senator JOYCE**—I asked a question of a professor about what the American exposure was. Even though I can go onto the Fed's site and I can see it is not their initial exposure—I imagine it is the first trade or whatever—or their positions in every country, he could say to me on the spot, 'Well, it was \$2 trillion to China, \$1 trillion to Japan and \$1 trillion to other people.' I know we get the statement that, well, there is a whole convex movement through myriad phases, but why can't we get an overall dynamic of where our money is coming from in the form that he can obviously get from the United States Treasury?

**Mr Bath**—I think the issue comes down to the definition of a beneficial owner. Our legislation requires us to make a statement of who we think the beneficial owners are, whereas I do not think—with all respect to my colleagues in the US—that they have the same level of responsibility. You can go to the website and see it. For example, there is around \$800 billion to mainland China. That is as at August 2009. There is \$730-odd billion to Japan, \$225-odd billion to the UK, \$189 billion to what they call exporters, which they list. Then you get down to Caribbean banking centres, which are No. 5, at about \$180 billion. It has oscillated over the last six months, being as high as \$213.6 billion at the end of March 2009. So, given that Caribbean banking centres are, if you like, code for offshore bank accounts, it is quite clear from this data that we are not talking about mums and dads in the Bahamas with on average about a quarter of a million dollars—

**Senator JOYCE**—They are drug lords, gun-runners and dictators—

**Mr Bath**—I would not care to speculate on what they do for a living, but I think your average mum and dad in the Caribbean is not sitting on a quarter of a million dollars worth of Treasury bonds. This tells me that we are not seeing the beneficial owners. Certainly Luxembourg has got about \$94 billion, which I think works out to about \$200,000 per person.

**Senator JOYCE**—I can understand that. They have not got their money down there for a tan.

**Mr Bath**—But the beneficial owners are not in the country, and our responsibility—

**Senator JOYCE**—Let us put it another way. Do you believe the proportion of debt that the Australian government holds to finance its own whatever it is—\$110.6 billion—is in the same portion as what you deliver there for the overall deposition?

**Mr Bath**—Do I think that we are in the same sort of proportion as the proportion of US Treasury's that is held by different countries? Is that your question?

**Senator JOYCE**—Yes.

**Mr Bath**—I do not really know. I know that Japan and China are large holders of our bonds and they are also large holders of US Treasury's, but I do not know the specifics of who owns the bonds.

**Senator JOYCE**—Would China have a preference for ours as opposed to the US's? There is an arbitrage in the interest rate.

**Mr Bath**—I would not call it an arbitrage because arbitrage implies that it is risk free. Let us say you had a US dollar bond index as your benchmark and you decided to exploit the fact that Australia had higher interest rates and you could earn what is called a positive carry by owning Australian government bonds versus the US government bonds in your benchmark. You would expect to make a higher return over time but you would also have currency risk. To the extent that the Aussie dollar has been appreciating you have actually made money on that exposure if you have not hedged it away. But if the Aussie dollar were to fall then you would lose some money, so it is not a riskless opportunity and therefore it is not what we would call an arbitrage.

**Senator JOYCE**—At this point of time if you wanted to you could borrow money—I do not know why you would because there is a risk there—in the US, invest it over in Australia and, all other things being equal, yes, you are taking a risk, but you are making money on the deal.

**Mr Bath**—It is not riskless. I think there are plenty of people who in the 1980s were delivered precisely that sort of proposition by their banks, and I am sure they would be able to come and tell you how well it worked out for them, because they lost their shirts.

**Senator JOYCE**—And that will happen again.

**Mr Bath**—It happened in about 1998 when all the currency traders were on the US dollar and short the yen because there was a interest rate differential—

**Senator JOYCE**—I am not recommending it. In fact I am saying it will happen again. It will flip around as sure as anything. But the question I am getting to is: is there a flow of funds that is exploiting that gap that you have access to?

**Mr Bath**—There has certainly been a flow in from overseas since we started issuing bonds, but the data that we have got from the ABS is actually showing that the proportion of overseas holders of Australian government bonds has fallen because the denominator has grown faster than the numerator, if you like. We have been issuing a lot of bonds since February and, yes, we have seen overseas investors buying them, or we have heard anecdotally that they have been buying them, more accurately, because that is what we are reliant upon, but in proportional terms it would seem that the proportion has gone from where we used to work on a rule of thumb of about two-thirds when the bond market was maintained at about \$50 billion or \$60 billion—

**Senator JOYCE**—Two-thirds was what, sorry?

**Mr Bath**—Two-thirds was held offshore when I want to say for the last six years—but prior to this year we were maintaining the bond market at gross outstandings of about \$50 billion or \$60 billion, if you include inflation link bonds, not that they were being issued into. But outstandings were about \$50 billion or \$60 billion. If you had asked me that question—

what do I think is the proportion or what is the ABS data telling me is the proportion held offshore?—I would have said about two-thirds, because, while they have been buying them, they have not been buying them at the rate that we have been issuing them; the proportion has fallen. My colleague has just provided me with some useful data. In March 2008 it was 66.4 per cent and in June 2009 it was 49.1 per cent, based on the ABS data and our calculations based on ABS data.

**Senator JOYCE**—At the maturity and the rollover process, for the purposes of *Hansard* could you tell us exactly when the interest drops down, the maturity comes up and the rollover process happens—what is the process that you go through? Do you roll the whole lot over? Do you send it off to Treasury: ‘Here’s your interest bill; you’d better fix us up for it’? Or do you just let it—

**Mr Bath**—The AOFM manages the general government sector’s cash position as a whole, so every agency and department that expends money provides forecasts to Finance, the RBA and us of that expenditure through time. We also get from Treasury and the ATO a profile of tax receipts over the course of the year. So you can imagine that we have a profile of cash flows for every day stretching out certainly for the current financial year and usually the best part of the next financial year—I am trying to answer your question—

**Senator JOYCE**—I am just going to drill down to the section. In those prospective cash flows you are looking at all the things that are coming in from all around the government; I know it is not that there is just one bill and that is the only thing you roll. I know it is not that simple. But, in those prospective cash flows that you are rolling over, are you also taking into account the interest expense and rolling over for that as well?

**Mr Bath**—Absolutely. The coupons are a cash flow that we can forecast a lot more accurately than other people can forecast their expenditure.

**CHAIR**—Thank you to AOFM for coming in this evening. Thank you for your assistance.

#### **Proceedings suspended from 9.21 pm to 9.30 pm**

#### **Australian Bureau of Statistics**

**CHAIR**—I welcome the Australian Bureau of Statistics. Do you have an opening statement?

**Mr Pink**—No, thank you.

**CHAIR**—Then we will go straight to questions.

**Senator ABETZ**—I have a few questions. The next census is 2011; is that correct?

**Mr Pink**—That is right. It is in August.

**Senator ABETZ**—They come around every five years; is that right?

**Mr Pink**—That is right.

**Senator ABETZ**—In 2006 what was the question that was asked in relation to marriage?

**Mr Pink**—The question that we asked in 2006, and that we will be asking again in 2011, is a question on relationships of people in the household. I am just trying to find the full detail. Here we are. They even have the 2006 form for me. The relationship, person 1 to person 2—

because we have that—is husband or wife of person 1, de facto partner of person 1, child of person 1, stepchild of person 1, brother or sister of person 1, unrelated flatmate or cotenant of person 1, and other relationships to person 1, and the individual responding can then write in any other relationship they do not feel has been covered by those previous predefined relationships.

**Senator ABETZ**—Will that remain exactly the same in 2011?

**Mr Pink**—Yes, it will.

**Senator ABETZ**—There has been a suggestion that you will be counting same-sex marriages in 2011.

**Senator Sherry**—Senator Abetz, there will be a full announcement shortly about the date and the details of the census, including the issues covered on questions. We are not in a position tonight to make an announcement; it will be made very shortly.

**Senator ABETZ**—Sorry—I thought Mr Pink had already indicated they would be asking the same question in the same way in 2011. Are you now telling us the government may in fact be involved in changing the form?

**Senator Sherry**—The matter has to go to the Governor-General. The regulations require that. That requires a cabinet decision, and an announcement will be made shortly.

**Senator ABETZ**—In relation to the questions as well?

**Senator Sherry**—Yes. I cannot pre-empt the announcements prior to the Governor-General's approval.

**Senator ABETZ**—I think that conflicts with what Mr Pink said earlier, that it was going to be the same question in 2011 as it was in 2006. Is that correct, Mr Pink?

**Mr Pink**—What I was indicating was that, when the decision was taken some time back to address shortfalls in our budget for 2008-09, I took a decision that the 2011 census would be the same as it had been in 2006. That was announced at the time. That was an indication to those people in the community who were proposing potential changes in the questions that were to be asked in 2011. In February 2008 we advised as to the content of the census—subject to, in the end, a decision of the government on the advice that we give of the content of the census—that we were not anticipating including any additional questions or changing any questions. That was announced back then.

**Senator ABETZ**—Because of the financial restraints?

**Mr Pink**—Exactly.

**Senator ABETZ**—I think we know where those financial restraints come from, but we will not go there tonight. We have canvassed them in previous estimates.

**Senator Sherry**—That is commonly known. But I would feel uncomfortable in making an announcement here tonight. There is a formal process that involves cabinet sign-off and the Governor-General's sign-off. There is a formal requirement.



**Senator ABETZ**—I am fully aware of that, but usually before it goes to cabinet the advice of the ABS may well be taken into account, et cetera. I must say that I was not aware that cabinet followed and micromanaged the census form to that extent.

**Senator Sherry**—That has always been the case.

**Senator ABETZ**—But can I ask, given that—

**Senator Sherry**—It is not a case of cabinet micromanaging, it is a case that there is a formal process to go through, and I can indicate to you that I am the responsible minister and I will be making an announcement in the near future about these matters. But there is a formality to follow.

**Senator ABETZ**—I fully accept that. In that case, Minister, can I ask you on behalf of the government to rule out any change in relation to the marriage and relationship question?

**Senator Sherry**—As I have said, I do not believe that here, tonight, I can announce the cabinet decision before the sign-off by the Governor-General. I think there is a formality that I need to follow. I will check tomorrow to see whether it would be in accordance with the requirements. I am not confident that here, tonight, I could give you that information, but I will endeavour to obtain that for you as soon as possible.

**Senator ABETZ**—It has been suggested to me that there may be a move to change this particular question and that it may have been as a result of a sit-in outside the ABS in Sydney. Was there a sit-in, or a protest, outside the ABS in Sydney at the time of the last census, Mr Pink?

**Mr Pink**—I will have to defer to one of my colleagues.

**Senator ABETZ**—Somebody with less hair, like Mr Ewing, who has been around a bit longer.

**Mr Pink**—I was actually in New Zealand at the time of the last Australian census.

**Senator ABETZ**—I would imagine it would be pretty memorable, because I could not think of anybody wanting to protest outside the ABS office, but there you go.

**Mr Lowe**—In 2006 there were two individuals who did stage a minor protest outside the regional office in Sydney.

**Senator ABETZ**—Without going into the detail, did the protest relate to the relationship question? Was the protest about the relationship question?

**Mr Lowe**—Their protest was about the relationship question.

**Senator ABETZ**—Despite that protest, you are telling us that the ABS has not been swayed by that protest, and the Australian Statistician has made an announcement that it is not their intention to change the form, but of course it is still open for the government to change the form. Is that the correct situation, Mr Pink?

**Mr Pink**—As I said, I announced back in February 2008 that, for ABS budgetary reasons, we were not contemplating changes to the 2011 census.

**Senator ABETZ**—Which is a perfectly reasonable situation, and I also accept that a democratically elected government can change the questions on the form. That is what a

democracy is about. I just wanted to get a handle on whether or not there would be a change. It is pretty clear now that any change will not be driven from the ABS, let alone from the result of a protest that Mr Lowe has told us about?

**Senator PRATT**—There might be more than two individuals who have an interest in the issue, to be fair.

**Senator Sherry**—As to the protest to which you referred, this is the first I have heard of it.

**Senator ABETZ**—I had only heard about it just recently. It occurred in 2006—I think, Mr Lowe, at the time of the last census?

**Mr Lowe**—That is correct.

**Senator ABETZ**—Have you been protest-free since?

**Mr Lowe**—As far as I am aware.

**Senator ABETZ**—I would imagine that would be the case. I must say I was somewhat fascinated by the prospect that somebody would want to protest outside the statistician's office.

**Senator Sherry**—I think I could also indicate that, as the minister responsible in this area, I have received no representations on this matter.

**Senator ABETZ**—Good. In that case, we now know that if there is a change it will be all the government's own doing. Thank you for that. Thank you for that assurance.

**Senator JOYCE**—Does the ABS have any role in determining where Australia's debt is coming from?

**Senator Sherry**—Just to clarify for the witnesses, when you say 'coming from'—

**Senator JOYCE**—We were just mentioning this before.

**Senator Sherry**—Yes, country of origin.

**Senator JOYCE**—Yes, country of origin. Sorry about that.

**Mr Ewing**—The Australian Bureau of Statistics collects information largely from nominee companies that hold securities on behalf of overseas holders of those securities. For confidentiality reasons, because what we would be publishing would be information relating to the share of securities held by particular nominee companies in Australia, our legislation and our practice is not to disclose information that identifies individual businesses, and that is essential to maintain the cooperation of businesses with the work of the ABS. For that reason, we are unable to disclose detail at the country level of holders of those bonds and even with respect to holders of those securities at the country level. All that could be reported then is the first offshore holder of those bonds. So it is possible, for example, that someone in Canada could acquire bonds through someone in the United States who holds those bonds through a nominee company in Australia. Even if we were able to disclose that information, we would not be able to reveal the ultimate country of origin or of residence of the bondholder.

**Senator JOYCE**—We could disclose the country of origin without disclosing the person who owns it, though, surely? Going to the American federal reserve bank site, they seem to be

able to do it. I know this is not a reflection of the ultimate holder of the debt, but why can we not at least do that, which would not be disclosing the purchaser of that?

**Mr Ewing**—There are two things. Firstly, as I said, the information we had would disclose the share of bonds held by the nominee company here in Australia, so we would be disclosing the identity and information relating to the nominee company here in Australia.

**Senator JOYCE**—When you go to the major foreign holders of Treasury securities in the United States, which I have open on my screen now, we see: China mainland, \$797 billion. I know they actually owe them about \$2 trillion, and I will get to that point in a second.

**Senator Sherry**—Sorry, is this data you are reading from their equivalent of the Bureau of Statistics that supplies this, or their Fed? I do not believe it is their Bureau of Statistics. Secondly, there has been a very strict confidentiality provision in respect of information provided to the ABS.

**Senator JOYCE**—I will get to the point. Why is it so strict that we cannot even mention the country?

**Mr Ewing**—Again, as Senator Sherry pointed out, the Fed are not a statistical agency in the States; they are a regulatory agency, and the rules that may apply to them in the States would be different from a statistical agency. The reason the ABS does not is that our consistent practice with information supplied by Australian businesses—in this case Australian businesses providing us with information about their holdings as nominees on behalf of overseas shareholders—is just like with any other business. We would not disclose the sales of Qantas and we would not disclose what share of the airline market Qantas might hold. Likewise, we do not disclose information about Australian resident nominee companies about their share of the market in Australian bonds that they hold on behalf of overseas countries.

**Senator JOYCE**—Do you know it, though?

**Mr Ewing**—The ABS would know internally information about that. To the extent that it does not identify individual company's shares, we can disclose it.

**Senator JOYCE**—That is the point. I do not want to know about the individual position. I want to know about the gross proportion of where it comes from—the gross proportion that this much is being sourced and it is primarily sourced from China, Japan or the United Kingdom; I do not care if I hear about Caribbean banking centres as No. 4; put it down as Caribbean banking centres, No. 4. I do not want to know who the people are. I just want to know the gross amount or the gross proportion. As to this idea that I will be giving away the confidentiality of the individual—I am not interested in the individual; I just want to know where the gross proportion is. Why can we not get that information?

**Senator Sherry**—As we have discussed extensively, as was discussed with the Office of Financial Management and as was discussed with the Treasury, they are endeavouring to find an effective way to meet the amendment to the legislation which would meet your concerns. There is a great deal of work going on—and it has been outlined here today—to endeavour to meet that amendment of the Senate in this regard. I do not know whether the Treasury or

AFM have consulted with the ABS on this matter. They can indicate if they have. The work is going on to try to achieve this outcome.

**Senator JOYCE**—Who in the department is responsible for trying to bring about that outcome?

**Senator Sherry**—The Treasury officials who were here earlier this afternoon, who are responsible for the legislation. The state guarantee legislation, to which that amendment was attached, is the responsibility of Treasury. It is not the responsibility ultimately either of the AOFM or the ABS in terms of the regulation and gathering of the sought after requirements in respect of that.

**Senator JOYCE**—Are you saying the ABS does not have any responsibility in the collation of that material?

**Senator Sherry**—Certainly not at the moment. They may or may not be consulted about it by Treasury; I do not know.

**Mr Ewing**—We have responsibility for publishing balance of payments statistics, and part of the process of publishing balance of payments statistics is to collect information on overseas investment in Australia. As a means to that end, we gather information from nominee companies on their holdings on behalf of overseas investors of Australian securities.

**Senator JOYCE**—That is dead right. In fact, Mr Ewing, you could not publish the Australian balance of payments certificates without that information.

**Mr Ewing**—Yes, but we can publish it without disclosing the individual percentages of those holdings attributable to individual nominee companies in Australia. That is the point. It is not where those are held ultimately overseas. It is our obligation to avoid disclosing information about the share of the market attributable to individual Australian resident companies. In this case, the nominee companies that hold those securities on behalf of overseas investors.

**Senator JOYCE**—I keep on going back to this point. I do not care; it is not a question about wanting to know the particulars of an individual holding company. It is about how much of this debt—not by fragments of individual holdings companies but in its gross proportion over the \$110.6 billion that the Australian government owes to overseas and over the \$170 billion that the state government owes to people—is primarily sourced from China or Japan? Each time we discuss this we seem to go back to individual holding companies, which is not the question.

**Mr Ewing**—The point is that it is not possible to produce that information about individual countries without in the process disclosing that holding by the individual Australian companies.

**Senator JOYCE**—Why is that? You have that information within your department. It is confidentially held within that department. I am not asking for it to be confidentially disclosed from outside that department, apart from, for example, that there is \$10 owed overseas, \$3 of which comes, with the best of intentions, from China, \$2 from Japan, \$2 from the Middle East, and the rest comes from somewhere else.

**Mr Ewing**—To give an illustration, if one of those nominee companies handled 90 per cent of the business on behalf of Chinese holders of debts—I am just giving as an example—if we were to publish information on how much is held in China, effectively we would be publishing that company's business in acting on behalf of Chinese holders. That is a hypothetical example.

**Senator JOYCE**—I will help you out so you do not disclose anything. Would it be possible, if you did disclose that, for people to work out by deduction who the main player was in the market?

**Mr Ewing**—Basically, yes.

**Senator JOYCE**—There is the answer. Is the collation of the material that comes before you immediate, or is there a lag to it? How immediate is your relationship between Treasury and AOFM on this issue?

**Mr Ewing**—We do not have a particular relationship with Treasury or the AOFM on this issue. We collect the information from the nominee companies, process it, include it with other information and then produce the balance of payments statistics as a result. Those statistics are then published and made available to all users at the same time, including Treasury, the AOFM or anybody else. We do not have a relationship with them in the process of producing those statistics. We produce them independently and make them available—the same information to everybody at the same time.

**Senator JOYCE**—I have got that issue. It took a while. It took about six hours with a few different departments, but we finally got there. The next question is about unemployment. Is it correct that a person is technically employed if they work an hour a week?

**Mr Harper**—Yes. A person who works an hour a week is considered to be employed.

**Mr Pink**—That is an international standard.

**Senator JOYCE**—It is a ridiculous international standard. If I work for an hour I do not think I would call myself employed. Do we have a calibration of how many people in Australia are working 37½ hours, five days a week, who wish to work 37½ hours five days a week?

**Mr Harper**—On a quarterly basis we publish a measure called the Quarterly Labour Force Underutilisation Rate, which includes people who work part time, but who would prefer to work longer hours.

**Senator JOYCE**—What is the percentage of that?

**Mr Harper**—In the August month, which was the last time we published that result, in trend terms 7.9 per cent of the labour force were underemployed.

**Senator JOYCE**—What was unemployed at the same time?

**Mr Harper**—In trend terms it was about 5.8 per cent for that month.

**Senator JOYCE**—You have 5.8 per cent, and so 13.7 per cent are either unemployed or underemployed?

**Mr Harper**—Yes. The trend number we published that month in terms of a combined total was 13.9 per cent of the labour force.

**Senator JOYCE**—Of that 7.9 per cent do you have any further breakdown of how many would be working 10, 20 or 30 hours a week, or would like to work more than they do?

**Mr Harper**—We publish breakdowns of the number of hours that individuals work during the week.

**Senator JOYCE**—What is defined as a ‘youth’ now?

**Mr Harper**—We publish estimates of labour force for 15- to 19-year-olds.

**Senator JOYCE**—What is the percentage of the 15- to 19-years olds in that bracket?

**Mr Harper**—Of those who are underemployed?

**Senator JOYCE**—Yes, unemployed and underemployed.

**Mr Harper**—I do not have those figures readily to hand, but we can get those for you.

**Senator JOYCE**—Are they published as well?

**Mr Harper**—We publish youth unemployment. I am not sure, as a matter of course, whether we publish youth underemployment, but I can check the availability of that data.

**Senator JOYCE**—Do you have a working relationship with the taxation department regarding ascertaining how many people collect certain types of benefits in certain areas?

**Mr Harper**—In terms of unemployment?

**Senator JOYCE**—For instance, are zonal rebates conveyed to you or just held with the ATO? I will give you an example. Do you have knowledge of people claiming zone rebate B through the ATO, or is that purely held by the ATO?

**Mr Harper**—We do not get any individual personal income tax information from the ATO.

**Senator JOYCE**—Do you get the gross information?

**Mr Harper**—We get aggregate information along the lines that the ATO itself publishes. That is for individuals.

**Senator JOYCE**—The main issue was foreign debt.

**CHAIR**—If that is all, I thank the representatives of the ABS for coming in. I call the Productivity Commission to the table.

[9.57 pm]

### **Productivity Commission**

**CHAIR**—I welcome the Productivity Commission. Mr Banks, do you have an opening statement?

**Mr Banks**—Yes, just a brief one. You will obviously have seen a number of releases from the commission in recent times. There has been a variety of things that have come out and we are quite busily engaged. I thought I would go through some of those things very quickly in the categories in which they appear. As you know, the flagship work for the commission is the commissioned projects that we get, which comprise both inquiries and studies, the main

difference being the degree of formality in our proceedings and whether we have public hearings or not. That is the case for inquiries, but in studies we typically have roundtables and other more informal mechanisms for consultation.

Since the last time we were here we completed and published two research studies that have been commissioned by government. One is to do with the ban on parallel importation of books, about which there has been quite a bit of discussion in the press and elsewhere. We have had quite a literate group of stakeholders in that one.

**Senator CAMERON**—I thought they were concerned stakeholders, when they talked to me.

**Mr Banks**—The other report was on regulatory burdens, which in itself is one of a series of reports, the most recent of which has been on economic and social infrastructure. We have a new study coming up in that series focusing on business and consumer services. We have eight projects currently underway that are quite diverse. They probably share in common that they are quite difficult topics, either politically or technically. Two recent examples would probably fit into both categories, being the draft reports that we have put out on executive remuneration and gambling in the last few weeks. I should say that they are both draft reports and the role of our draft reports is to stress test recommendations at an early stage to allow people to come back to us. We have public hearings and roundtables to take that feedback.

We have also had drafts appear from our studies into the contribution of the not-for-profit sector, private and public hospital performance, and an inquiry draft report on antidumping, the last two of which will have final reports in December. There are two other drafts reports that are imminent. One is on market mechanisms for recovering water in the Murray-Darling Basin, where we have received an extension to March, but the draft will be coming out in early December. The other one is on regulatory benchmarking, which again is a series of reports. The two areas that we are focusing on in drafts coming up are on food safety and occupational health and safety. In addition, we have received an inquiry into wheat export marketing, which has just commenced.

A number of those inquiries and studies have come to us from the Council of Australian Governments, including ones on gambling, antidumping and benchmarking. Over time we have been having an increasing role in relation to the COAG agenda, including in the traditional area, where we have acted as the secretariat to the steering committee for the review of government services. Our additional role has been reporting to the COAG Reform Council on the national agreement indicators that in turn inform their own reports to COAG. In that second major stream of activity, as secretariat to the steering committee, we also put out a report on overcoming Indigenous disadvantage, which was released in Darwin to coincide with the COAG meeting in early July.

The big blue book that comes out once a year is in the stage of finalisation and will appear in January. That is the book on the efficiency and effectiveness of government services. We are also providing research support, as the Productivity Commission, for new intergovernmental work on Indigenous expenditure, trying to map and track what has been happening to Indigenous expenditure in a whole range of service areas, which has not been done nationally before.

We also have a range of supporting research that is self-initiated with a mandate under our act, including our annual reporting, which is imminent, and a number of submissions that we have provided, including one to the House of Representatives Standing Committee on Economics related to their productivity investigation. In fact, we are appearing tomorrow at 9 am before that standing committee.

We have also been developing our analytical capacity in anticipation of work that we will be doing relating to the Carbon Pollution Reduction Scheme and, in particular, the assistance arrangements under the energy-intensive trade-exposed component of that scheme, the Renewable Energy Target process and the claims that may be made under that for assistance. That lies ahead of us. The only other important thing to mention that has occurred in recent times is that the Prime Minister has announced that we will be doing a stream of work in the area of human service provision, and aged care is one specific area mentioned for an inquiry in the future. With that brief rundown, we look forward to having some questions and discussion.

**CHAIR**—Thank you. You mentioned that you have distributed the draft report on the not-for-profit sector, which is a report that this committee also did, so we have some appreciation of the wide scope. From my quick skim through the report, you have obviously covered it in more detail and you have it out for consultation now. Do you know when the final report is expected?

**Mr Banks**—Yes. As you say, it is out for consultation. We are having wide-ranging consultations on that. The final report is due at the end of January.

**CHAIR**—Thank you. Senator Cameron.

**Senator CAMERON**—In your opening statement about the books bounty you said that these literate stakeholders were contacting you. What did you mean by that?

**Mr Banks**—I guess I was indicating the fact that this is one inquiry where we have had a very literate group of people who have been making submissions to us. I would have to say that the quality of the writing in those submissions has been above the average.

**Senator CAMERON**—So, it was not disparaging?

**Mr Banks**—Not at all—on the contrary. Sometimes we struggle, as others might struggle, with our own prose, but I would have to say this is an inquiry in which the prose has been of a very high quality.

**Senator CAMERON**—Were these literate shareholders expressing concern about the outcome of the Productivity Commission's draft report?

**Mr Banks**—We have now produced a final report that is with government, so it is for a government decision. I guess like any inquiry you get a range of views and probably the majority coming from authors would have been raising concerns. You are right about that.

**Senator CAMERON**—I raised with you in the last estimates the issue of your providing advice to government and basically having a monopoly in terms of official advice to government. I was asking what competition you face in terms of providing economic advice to government based on productivity issues.



**Mr Banks**—It is quite crowded in the advisory arena. There is a range of advice that comes to government from within different government departments. Treasury obviously provides very expert advice in that area. The Bureau of Statistics, which just appeared before, produces a lot of information in that area. There are also various universities and research bureaus or think-tanks that would be doing some work, academics and so on. There are many more consulting firms around these days than there used to be before and they may well be called upon to do studies of that kind.

**Senator CAMERON**—Since the establishment of the Productivity Commission how many formal referrals have gone to the private sector instead of the Productivity Commission?

**Mr Banks**—The commission is probably different from a range of those other ones in that we are established as an independent statutory authority to provide independent advice.

**Senator CAMERON**—That does not mean to say you should be the only one.

**Mr Banks**—I agree, and we would not make that claim, but we hold that position.

**Senator CAMERON**—You are basically holding a monopoly position?

**Mr Banks**—No. A monopoly would mean that there was no-one else who could provide advice to government. While the advice that we provide is generally commissioned, where the government asks us to do specific things, government can equally seek advice from others. It would not come under the provisions of our act, but it would typically have terms of reference that would be specified, and consulting firms, academics or others would provide reports. Increasingly, in recent times, there have been eminent person-type taskforces who have been tasked with doing things under terms of reference and so on. We could come back to you, if you like, with a list of those sorts of commissioned studies.

**Senator CAMERON**—That would be fine if you want to do that. In terms of the economic expertise in the Productivity Commission, it seems to me that you are predisposed to the Washington consensus or free trade principles. How would you describe the economists who are providing the information? Firstly, how many economists do you have working for you?

**Mr Wonder**—Our total staff is 190 across our two offices. I can get you the exact numbers of economists on notice, but I can also give you a feel for it. It would be approximately 150.

**Senator CAMERON**—One hundred and fifty economists?

**Mr Wonder**—I should say 150 professionals, and some of those professionals are made up of other disciplines. The commission has lawyers employed in the organisation. We have some social scientists. We have people with double degrees, which is very popular amongst graduates nowadays, as you would appreciate. The most common skill would be economics, but we have a lot of other skills as well.

**Senator CAMERON**—There are different disciplines of economics and different views—Keynesian economists and—

**Senator JOYCE**—There were not last night.

**Senator CAMERON**—We have neoclassical economists. Have you done any analysis in terms of what the predilection of your economists is?

**Mr Banks**—We have economists who are trained in Australian universities. That is the majority of the people we have, although some have come from universities overseas. We have a mixture of people who have come from universities all around Australia. It would depend on the particular courses that they had in those universities.

**Senator CAMERON**—Surely the courses do not determine how they view economics?

**Senator JOYCE**—You are not saying there is some sort of plot by Keynesian economists or monetarists to take over the Productivity Commission, are you?

**Senator CAMERON**—No.

**Senator Sherry**—Certainly not a French plot.

**Senator JOYCE**—Yes, not a French plot.

**Senator CAMERON**—Senator Joyce, I do not run the argument that you do that the IMF has been taken over by economists.

**Senator JOYCE**—You are doing an able job of tearing to pieces your own Productivity Commission.

**CHAIR**—Again, we will not have a debate within the committee. We will concentrate on asking questions.

**Senator CAMERON**—Yes. You cannot tell me whether you have economists who have a Keynesian view of economics, or neoclassical?

**Senator JOYCE**—I used to do this and they got furious with me, so watch out, mate.

**Senator Sherry**—It is getting late.

**Mr Banks**—No. In all honesty I could not tell you that. We do not brand our people in those ways. If they have a common approach to things it is to take an economy-wide perspective on the issues they are addressing, not looking at the interests of particular groups but trying to get a handle on what is at stake for Australia as a whole. I think that would be a common approach that the staff would use, regardless of where they were trained, which particular universities and which particular courses.

**Senator CAMERON**—My experience with the Productivity Commission is a neoclassical output.

**Senator JOYCE**—It is a conspiracy.

**Senator CAMERON**—I have appeared before you in the past. I have seen some of the outcomes in the car industry that were all very predictable in terms of the approach. It just seems to me that it is the neoclassical outcome. Why would that be? What debate takes place internally in terms of the different views of economists across the world?

**Mr Banks**—We have quite vigorous debate. As you would know from participating in those inquiries, we have quite a vigorous debate with participants such as yourself and a range of stakeholders.

**Senator JOYCE**—You are having one tonight.

**Mr Banks**—We put out a draft report. Unions, industry groups, community groups and others come along and debate them with us. They can bring their own brands of economics if they like, put those before us and argue the toss on particular things. I think we had a discussion last time I was here. In our report on consumer policy there are dimensions of behavioural economics that were brought to our attention in terms of how individuals behave that deviate from perhaps what textbooks would say, what they might do in the long term and so on. It really is horses for courses for us. I should say that when we have done some of the modelling work that we do, again, we rely on the sorts of models that have been developed in Australia and other places, but that is not the only input into the findings that we have.

**Senator CAMERON**—The Lowy foundation has had a number of seminars where they have argued that the Washington consensus is finished and there is now the Beijing consensus. Do you analyse that and bring any of that new thought to bear when you are looking at the work that you do for government?

**Mr Banks**—Again, to be honest, we would not think in those sorts of generic terms. In fact, I am not quite sure what the Beijing consensus would be other than that we might have seen some of those consensus merging over time. Whether they are deviating again, in more recent times, I do not know. Indeed, we have had a lot of people from China coming to Australia trying to understand what has been happening in this country, which is somewhat surprising.

**Senator CAMERON**—That is not the Beijing consensus. I do not have time to explain what the Lowy Institute have said. I am happy to send you a copy. It is not about where you come from. Is the Richard Snape lecture series due again in November?

**Mr Banks**—That is true, yes.

**Senator CAMERON**—Who will be your guest lecturer this year?

**Mr Banks**—Speaking of Beijing, we have Professor Yu Yongding, who is the Former Director of the Institute for World Economics and Politics, Beijing.

**Senator JOYCE**—Probably another neoclassical stooge. Watch out, Dougie!

**Senator Sherry**—I do not know whether I should admit this, but if my diary allows it I do intend to go, because I understand he is a very impressive speaker.

**Senator JOYCE**—You are not part of the conspiracy as well are you, Minister?

**Senator Sherry**—Whether it is French or in your case Chinese, he is a quality speaker.

**Senator JOYCE**—You neoclassical stooge!

**Senator CAMERON**—The last time we were here you asked me for advice about who you should invite. I realise that is not my job. I thought of perhaps some of the more progressive economists. Have you given any thought to looking at more progressive economists who challenge the standard analysis that you produce?

**Mr Banks**—I would have thought a professor who comes from the Institute of World Economics and Politics in Beijing, and is highly regarded in China, would be a little different

and not from the same mould as some others. In some respects you could say that that choice has responded to the sort of point you made last time.

**Senator JOYCE**—You should have run it past Dougie first.

**Senator CAMERON**—He did ask me the last time. I am not sure if you have ever been asked by the Productivity Commission to give them any advice—not after the interviews that I have seen in the last few weeks. I turn to the recent report on executive salaries. I described it earlier today as a bit timid. I believe it is timid.

**Senator JOYCE**—Minister, defend the Productivity Commission against this outrageous attack.

**Senator CAMERON**—It is not an outrageous attack. I raised with the Productivity Commission some issues that arose from the Senate legislation committee inquiring into executive salaries. I was quite concerned to notice that you did not deal very much at all with the role of remuneration consultants in driving executive salaries up. That was one of the key points to the Senate inquiry. When that came to me I wrote to the Productivity Commission and said, ‘Here’s some of the evidence we’ve had. Here’s my views in relation to that role.’ The role was consistent with the views that you had, Senator Joyce.

**Senator JOYCE**—Stop asking all of my questions. You are putting me out of a job.

**Senator Sherry**—Does that mean we can get home a bit earlier tonight? Have you looked at any of the outcomes of that Senate inquiry and considered the issues prior to your draft report?

**Mr Banks**—Yes, we did. On that issue to which you refer there is material in the report and, indeed, of the 15 recommendations we made, two relate to remuneration consultants in terms of, on the one hand, requiring boards to nominate those consultants they have used, which has not been common in the past in the remuneration reports and, secondly, to address concerns that you and others have raised that there are conflicts of interest in relation to the work of those remuneration consultants in requiring them to specify what other work they have done for the firm. In the past there have been cases—and this came up in that inquiry—where remuneration consultants have done work for the board but they have also done work for the CEO and the company, often of a more remunerative nature, if I can put it that way. We have required much greater disclosure and transparency around all of that.

**Senator CAMERON**—As you are aware, there has been a great deal of discussion and debate about pattern bargaining and enterprise bargaining within Australia. I am sure the Productivity Commission has made comments about it in the past. The evidence that we had was that there was what was described as asymmetric pattern bargaining amongst the executive class in this country. Are you aware of that view that was put forward by Professor Peetz?

**Mr Banks**—Yes.

**Senator CAMERON**—You did not seem to pick up too much arising from that in terms of that approach.

**Mr Banks**—We did not use that term, but we looked at what was driving remuneration and remuneration outcomes. There are multiple factors involved. I know in the work of the

committee, and some of the remarks that you have made yourself, this question of comparative wage justice or a comparative income justice was seen as a key issue. We analysed what was driving executive remuneration and to what extent it was based on these sorts of relativities. There is no doubt that executives, like other people, are looking at what others are earning and potentially what they could be earning in other positions. The role of disclosure and the role of remuneration consultants in facilitating that kind of comparative approach was discussed in the report, although when we looked at the statistics we did not find that subsequent to the requirements for individual disclosure there was any acceleration in executive remuneration. In fact, there was quite the opposite. It was hard to see in the data, anyway, that it had a very direct impact.

**Senator CAMERON**—Data is data, is it not?

**Mr Banks**—That is true. I should say the data in Australia in this area, as you well know, is not very good. I have mentioned the irony that the US has great data but poor governance. We have a lot better governance, but a lot poorer data, and that is the problem we faced.

**Senator CAMERON**—You recommended the nature and source of the advice received by the board or any board nominee in relation to the decision to award the benefit should be made public to the shareholders?

**Mr Banks**—Yes. We thought the remuneration reports, which currently set out the remuneration of the key management personnel—the top five earners and so on, the basis for that and the numbers—had become so complex, and yet they do not often have the information that shareholders really want, including what executives are actually being paid as opposed to the synthetic constructs of estimates of what they would be paid over time if certain things happened to the share market. We also felt that it was very important for shareholders to know who had advised the boards in relation to remuneration and what potential conflicts of interest they might have had. I should say that these are draft proposals, and no doubt we will hear all sorts of commentary—and we already have—about how practicable those things are. We did see that as an important issue to be discussed.

**Senator CAMERON**—When you see a debate about executive salaries, you normally see executive salaries in the broad literature articulated as a multiple of average weekly earnings or some other base pay scenario. I took the view that, when shareholders are looking at what the executive salary is, there should be some base such that they could judge the multiple from the base, instead of just a year or such and such, because that makes a difference. When a normal worker is terminating, if they are lucky enough they will get a redundancy payment of so many weeks per year of their normal salary. Why are executives not judged the same way? Why are shareholders not advised of what the normal ratio is that applies in the company to a normal worker and then what is being applied in terms of a multiple of the base salary for the termination of the executive? Would that not give the shareholders a better understanding of the gap between what applies to a normal worker and to the executive?

**Mr Banks**—Are you referring specifically to termination payments?

**Senator CAMERON**—Yes.

**Mr Banks**—That could be done, provided there is transparency about what those termination payments are. Under the government's new legislation there would be boundaries

on that that are much tighter than they were before. Shareholders in the future are going to be far better informed than they were in the past and the potential for upside on those termination payments is greatly circumscribed, anyway, as a result of that legislation. I think it is less of an issue now, because of the government's legislation, than it would have been before when the multiple was seven times total remuneration, which was excessively high.

**Senator CAMERON**—One of the issues I raised with the Productivity Commission was the question of what is the social benefit and the economic benefit of these massive executive salaries. Has any analysis been done? Do these salaries bring a benefit back in, in terms of consumption or social benefits? Is there any analysis that can be done on that?

**Mr Banks**—When you say 'these salaries', one of the things we found was that there are 2,000 publicly listed companies in Australia, and the high pay packets are pretty much confined to the top one per cent or two per cent. If you plot them on a chart, you see quite a consistent ratio or relationship between the market cap of the company and the pay of the CEO. Interestingly, we have done some quantitative analysis to look at that relationship. In broad terms, for every 10 per cent increase in market capitalisation you see a four per cent increase in the CEO's pay. When we looked at it, that was consistent with data and analysis that had been done in the US, the UK, Europe and other places as well.

**Senator CAMERON**—That is the analytical approach. We have had lectures from the Productivity Commission in the past about how terrible pattern bargaining is, why you need to improve productivity and why it is in the national interest to make all of these changes, yet at that top end, even though it is a small group of people, why has there been no analysis done of the social impact of those salaries, the social benefits, if any, of those salaries, and the economic benefits to the country of those huge salaries that are paid out, of multimillions of dollars?

**Mr Banks**—As I said, the analysis that we have shows that there is a relationship between the size of the company, the income it generates, the numbers of workers and those levels of remuneration. That is not just true in Australia; it is true all around the world. In fact, when we compared even for the top one per cent or two per cent those really high salaries, \$10 million or more—

**Senator CAMERON**—But that is not what I am asking. That is a statistic that you are giving me. I am asking whether you have done what you have done with ordinary workers—that is, forensically analyse the contribution that blue-collar workers, white-collar workers and retail workers make to the economy through their bargaining? Why are you not doing that for executives?

**Mr Banks**—The analysis in the report does extend to that. You may be overstating the extent to which we forensically analyse the contribution of blue-collar workers to the social benefits and so on.

**Senator CAMERON**—You did it for the AMWU members in the vehicle industry. You did it forensically.

**Mr Banks**—The point I would make is that the analysis shows that there is that relationship and it also shows that salaries are very much confined to those large companies. They are large complex companies. They do have a lot of people working for them. Also,

those salaries, I am sure, are more than the people concerned need to live a pretty reasonable or even a luxurious life. The question we addressed in that report is: are they worth that amount of money to the shareholders? There are a number of arguments that we have looked at—that people have put to us and so on—which suggest that the relationship between the size of the company and the size of the CEO salary can be explained in terms of the magnitude of the values or the losses associated with those CEO's decisions. There is quite a bit of analysis in our report that goes through all of that.

**Senator CAMERON**—I am not quite clear. I will have another look at it. I must say that I did not pick up your analysis about the social benefits that these high-flying, overpaid executives bring to this country.

**Mr Banks**—This is where you may well differ with me. We would see that those social benefits are not entirely unrelated to the economic benefits that come with the activities of those companies in the economy, the income and the value they generate for shareholders and, indeed, the jobs they generate for thousands of people who work for them.

**Senator CAMERON**—I am conscious of the time and I know there might be other questions. Can you take on notice—I do not want to know the names of your economists—to give me an outline of your structure within the Productivity Commission, the economists that work within each area of the structure, and the qualifications of the economists within those structures? I would like to pursue this question of getting more and different views within the Productivity Commission. That would help me understand how you are structured and what the qualifications of your economists are and what universities they came from.

**Mr Banks**—We will do what we can. I think you will see that there is a very diverse group of people who work for us, coming from all sorts of places and walks of life. We even have some trained in France, to come back to an earlier comment.

**Senator CAMERON**—Don't tell Senator Joyce. That is where the socialist plot is coming from now. When you say you will do what you can, does that mean you do not have that analysis?

**Mr Banks**—I will have to check with my colleagues. We have a certain amount of information. It was of interest to us to know, for example, whether people who have economics degrees might also have training in other things. Quite a few of them do have that. We will get together some information. I can see where you are coming from, so we will provide whatever information we can to satisfy that.

**Senator CAMERON**—Thank you.

**CHAIR**—Senator Joyce.

**Senator JOYCE**—It is healthy to see the Senate properly representing, where even government senators manage to kick the living daylights out of their own people.

**Senator CAMERON**—Don't praise me. I have seen your interviews in the last few days and I do not want to be associated with praise from you.

**Senator JOYCE**—You did a good job.

**Senator Sherry**—I still feel like a Geelong football supporter.

**Senator JOYCE**—You will be interested to know that last night Senator Cameron gave a raving dissertation about how inappropriate my commenting on the IMF was when people such as Denis Kessler were actually members of the Revolutionary Communist League—he was—and was a close friend and confidant of the current chairman, Mr Strauss-Kahn, of the IMF. That apparently was completely outrageous, but pinning you all down as neoclassical stooges apparently is not outrageous. I would have to say that I will not go that far. I am going to give you the benefit of the doubt, think you are a well-balanced organisation and go right out on a limb against the government. With that as a preamble, I am interested in some of the studies you have done as opposed to your political persuasions. How far are we into wheat export marketing?

**Mr Wonder**—The export marketing inquiry has commenced. We have put out an issues paper in the last week or so, and we are scheduled to prepare a draft report in March 2010. Under the requirements of the legislation we are required to provide a final report by 1 July 2010.

**Senator JOYCE**—You would have noted—and it is not anecdotal but empirical—that the current price of wheat has collapsed to where it was prior to the deregulation of the single desk.

**Mr Wonder**—Yes, I am conscious of the price changes.

**Senator JOYCE**—In your investigations have you been talking to farmers and key lobby groups—taking the political side out of it—that prior to deregulation fought tooth and nail saying this is exactly what would happen and it has happened?

**Mr Wonder**—I am not the inquiry commissioner so I can only give you my understanding of the discussions the team is having. I know they are arranging, and indeed have already held, many discussions right around the country and will be visiting many rural and regional areas interested in wheat growing and hearing views no doubt from all quarters.

**Senator JOYCE**—I hope we get to the point where we do not just discuss it with certain traders who have proven themselves absolutely splendidly to have not assisted the price of wheat but have just taken their margin on the way as the wheat price has fallen over. Their splendid nirvana never appeared, but they did seem to put some money in their pockets as they creamed off the market.

**Mr Wonder**—I can assure you that the team is in contact with growers, people in the marketing chain and the like. They are talking to many and varied stakeholder interests in the wheat industry.

**Senator JOYCE**—Have you managed to get a fair response? I am thinking about the Jock Munros, the Central Queensland wheat growers and even Graham Blight. Have all of these people put submissions in to you? Are they aware of your process? I know we are in the political field, but are we certain that these people basically out in the paddock are aware of your commission's work?

**Mr Wonder**—Yes. I would be confident that our work is widely known. I will ask Dr Kirby whether he knows the date for when submissions are due. I do not think we have received many submissions as yet, because we have only just got under way.



**Senator JOYCE**—It is extremely important.

**Dr Kirby**—The due date for submissions is 13 November. We still have a little while to go for submissions. As Mr Wonder indicated, there has already been substantial consultation all around the country and there will be a lot more still to come. The draft report will be in mid-March or so.

**Senator JOYCE**—I just want to make sure that as much information gets to you as possible. Are you getting on the road to the regional towns to make yourself known so that these submissions come in? Unless you are in the local paper talking about it you are probably not in the paper at all, as far as a lot of these people are concerned.

**Mr Wonder**—I am aware that the team has already made a number of regional visits and no doubt they have more planned.

**Senator JOYCE**—Have you made your position aware to general publications, such as the *Land*, *Country Life* and *News Weekly*? Have they managed to do editorials on you and clearly made readers aware that this process is going forward?

**Mr Wonder**—Apart from the issues paper that I mentioned, the distribution of that and the inclusion of it on our web, our processes include notification via formal advertising of our inquiry and the like.

**Senator JOYCE**—Where are we advertising it? It is standard practice a lot of the time to advertise it in the *Australian*, but to be honest, although it is a marvellous publication it is not the one they probably read.

**Mr Banks**—I should say that when we have an inquiry that has a significant rural interest we go out of our way to get information about the inquiry into rural newspapers. On various inquiries we have had town hall meetings and meetings of that kind, and usually there is an opportunity for a local reporter to come along, talk to the commissioners concerned, do articles and so on. I am not conscious of the extent to which we have been able to do that so far, but that would certainly be on the agenda for us in an inquiry of this kind, for the reasons that you are indicating. It is so important to get a grassroots response.

**Senator JOYCE**—In this instance I am not scoring a political point. I just want to make sure that we get the *Country Life*, the *Land*, *News Weekly* and the local big regional papers, the *Northern Daily Leader* or whatever the one is in Emerald, and something down in Wagga, in these big wheat growing areas and to those people out in the west as well. That will be by November, so there is still time to do that. Turning to your inquiry into the Murray-Darling and water, in the Productivity Commission have you been taking submissions from people from Lower Balonne and Condamine? They are willing and wishing to sell water licences, and apparently this process is not going forward.

**Dr Kirby**—The water buyback one is a bit more advanced than the wheat exporting one. There has been quite extensive consultation throughout the country, including in many regional centres. I understand so far we have received in the order of 50 submissions from a wide range of organisations, and so there has been fair engagement with the various stakeholders. I have no specific information on the individual submissions, although they

would be on our website, so they would be available for anyone to look at and see who has been contributing.

**Senator JOYCE**—Were people made aware through newspapers in irrigation areas that this process was going on so they could avail themselves of the process?

**Dr Kirby**—In the press clippings that we collect there have been plenty of press clippings on this particular issue.

**Senator JOYCE**—This is partisan, because I live there, but I know there is immense interest in my area in issues of water buyback, current debt levels, current drought and wanting to put themselves back on a footing where they can actually go forward. They were looking forward to the tender process for the purchase of water, but no water is wishing to be purchased. But water is being sold at a price higher than they are offering it for in lumps sums from Twynam and other places such as that.

**Dr Kirby**—One of the purposes of the study is to examine how the process has been working and alternative mechanisms for the purchasing of water. As seen in the issues paper, some of the actual technicalities associated with the tendering process are up for examination.

**Senator JOYCE**—The inquiry into gambling is afoot. How is that progressing? When do we expect recommendations on that?

**Mr Banks**—The gambling inquiry?

**Senator JOYCE**—Yes.

**Mr Banks**—We issued a draft report a couple of days ago. That report is now publicly available. We will be receiving submissions on that. We have a round of hearings that will commence in November and then we will have a final report that will be given to government at the end of February. We have had quite extensive contribution to that inquiry at the front end, and then already quite a lot of feedback in the last couple of days from the draft report.

**Senator JOYCE**—With respect to the importation of books, am I correct in saying that the Productivity Commission is in favour of the importation of books?

**Senator Sherry**—Our books are imported. No-one is opposing the importation.

**Senator JOYCE**—You know what I am talking about, otherwise I will think of a whole heap of other pointless questions and keep you here till 11 o'clock.

**Mr Banks**—Clearly, our final report, which has been released, was favouring removing the ban on the parallel importation of books. That is now with the government. It is now in the political realm. It is up to the government to make a response on that report. I guess we have had our say in that report. As Senator Cameron indicated, not everybody agreed with our logic there and there has been quite vigorous debate since the final report was released.

**Senator JOYCE**—To make the confusion complete, I agree with Senator Cameron, but I was not going to assist him anymore. He is doing an able job by himself. One thing I am interested in, which plays on my mind more and more, is the Productivity Commission and big one—the removal of states. As we go around the countryside, the view is unanimous, which was the case the other night with a room full of 80 people, who were randomly selected. We always start with the contrarian view, those in support of the states, to register

their support. No-one supported it. The whole room was against it. This is becoming an issue of debates in Sydney and throughout the nation.

**Senator Sherry**—I don't know about Tasmania.

**Senator JOYCE**—Tasmania might be different, and I must admit I have not been there. Western Australia also has a partisan view. The rest indicate a general desire—in fact, an overwhelming desire—to get rid of states, and there is a general acknowledgement that states are a waste of money. A study by Dr Mark Drummond has found there is an ongoing cost of between \$40 billion and \$80 billion a year to run the states. Have you had any inquiries or have there been any moves toward having an inquiry into the relevance of states in the year of our Lord 2009 as opposed to when they were incorporated in 1901? Could we do it better by just going direct from the Commonwealth to local government, with a constitutional recognition of local government and direct appropriation to local government?

**Mr Banks**—These are very big political questions. The window that we have been able to look through involves questions of how you make the federation work more efficiently. We have been very much linked into the COAG agenda of cooperative and competitive federalism to drive efficiencies in the system, to get rid of variation that is not justified in the regulatory domain and so on. In a whole series of things that we have done we have tried to inform what would be good regulation, at what level, and what regulation should migrate from the state level up to the national level and so on. That is all within the parameters of the federation as it is, where we have done that work. In a lot of respects the states and the Commonwealth have made quite a lot of progress in terms of reducing some of the fragmentation—the multiple markets rather than the national market that had existed in the past. You are dead right; what is appropriate now compared to in 1900 is an important question.

**Senator JOYCE**—I was at a debate the other night with a Labor Party person and a professor who was with the Greens. A wide consensus of people want to get rid of states. We won the debate. When are we going to grasp the nettle and start this process?

**Senator Sherry**—The issues of referral to the Productivity Commission are determined by the government of the day, and there is nothing currently specifically concerning the abolition of the states that has been referred to the Productivity Commission. There is an evaluation process of the COAG outcomes that the Productivity Commission is doing.

The Productivity Commission did a very good report on national regulation of financial markets in Australia, which I have to say was partly the reason we have gone down that route as a government. It has had an impact in that area, but no direct reference on the front shirt issue, if you like.

**Senator JOYCE**—In the process, Minister, because you were there and you are a member of the government, I am imploring you also to look at this issue. While there is a sense of a will and possibly some consistency amongst governments, regardless of the fact that they might not be of my ilk, there is a possibility that this process could be underway. I am sure the nation would be a better place if we did that.

The other issue is rail gauges. I know we are going to have an announcement tomorrow from a private consortium that is starting work towards dealing with this issue. Has the

Productivity Commission done any work on the complete inconsistencies with differentiation in rail gauges and the complete disruption to internodal port activity, especially with the development of such ports as Gladstone, as a greenfield site, and working our way through bottlenecks in Sydney when we could be utilising inland rail to get effective, quick and dynamic access to a multiplicity of ports? I know tomorrow at breakfast there will be a private consortium working towards this. Is this something in your purview?

**Mr Banks**—Over the years we have done a number of studies looking at rail infrastructure, rail policy and so on. Those issues have come up again. That is probably the longest standing deficiency that you can observe in the Federation, that you have had these sorts of mismatches and so on. We have not done anything very recently on that. It is probably more the bread and butter of the National Transport Commission in terms of looking at some of the regulatory inconsistencies that still exist. My understanding is that quite a few of those are being worked on and some have been remedied, but no doubt some still remain. There is nothing that is very recent that I could point you to that is from our own research.

**Senator JOYCE**—Finally, with respect to the CPRS, have you been approached to do any further work on amendments?

**Mr Banks**—No, we have not. I know we have had conversations in the past about our capacity and so on, but we have not been instructed to do any work in that area. It is very complex, detailed work and there are obviously advantages in specialisation and pooling expertise to get the critical mass to do that work well. It is not something that we have geared up or been asked to do.

**Senator JOYCE**—In your modelling of the current CPRS did you do modelling into agriculture and what happens if it is included?

**Mr Banks**—No. Just to repeat, we have not done any modelling of the CPRS ourselves. The closest we have got to that would have been with the various taskforces that were looking at the emissions trading system where we have made submissions. Again, they were not strongly modelling based, just because the modelling requirements in that area are very demanding. We have not been instructed or asked to do that.

**Senator JOYCE**—Would you have the capacity to give a report on the CPRS if you were asked to do it?

**Mr Banks**—Again, we are always optimistic about our capacity to do things, but there would be a very significant lead time required to get the modelling capability in house that already exists elsewhere to do that sort of work.

**Senator JOYCE**—Thank you.

**CHAIR**—I would like to thank the Productivity Commission for coming in. I would also like to thank Hansard, broadcasting and the committee secretariat. The committee will now adjourn.

**Committee adjourned at 10.47 pm**