



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

ESTIMATES

(Additional Estimates)

WEDNESDAY, 10 FEBRUARY 2010

CANBERRA

BY AUTHORITY OF THE SENATE

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SENATE ECONOMICS
LEGISLATION COMMITTEE
Wednesday, 10 February 2010

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

Participating members: Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, 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 Boswell, Brandis, Bushby, Cameron, Colbeck, Coonan, Eggleston, Fielding, Fifield, Heffernan, Hurley, Joyce, Ludlam, Ian Macdonald, McGauran, Milne, Minchin, Pratt, Ronaldson and Xenophon

Committee met at 9.00 am

TREASURY PORTFOLIO

In Attendance

Senator the Hon. Nick Sherry, Assistant Treasurer

Department of the Treasury

Dr Ken Henry, 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 Damien Dunn, General Manager, Macroeconomic Modelling Division

Mr Robert Ewing, Manager, Macroeconomic Modelling Division

Outcome 2: Effective Government Spending Arrangements

Output Group 2.1: Fiscal Group

Mr Nigel Ray, Executive Director

Ms Peta Furnell, General Manager, Social Policy Division

Mr Peter Robinson, Principal Adviser, Social Policy Division

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

Mr Russ Campbell, Principal Adviser, Industry, Environment and Defence Division

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

Ms Jan Harris, General Manager, Budget Policy Division

Ms Luise McCulloch, Principal Adviser, Budget Policy Division

Mr Jason Allford, Principal Adviser, Budget Policy Division

Ms Sue Vroombout, General Manager, Commonwealth-State Relations Division

Ms Deidre Gerathy, General Manager, Corporate Services Group

Mr Robert Donelly, Chief Financial Officer, 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 Michael Willcock, General Manager, Personal and Retirement Income Division

Ms Christine Barron, Secretary, Board of Taxation and General Manager, Indirect Tax Division

Mr David Hazlehurst, General Manager, Tax System Division

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 Vicki Wilkinson, Principal Adviser, Corporations and Financial Services Division

Ms Marian Kljakovic, Manager, Corporations and Financial Services Division

Mr Bede Fraser, Manager, Corporations and Financial Services Division

Mr Mark Sewell, 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 Patrick Colmer, General Manager, Foreign Investment and Trade Policy Division

Mr Frank Di Giorgio, Principal Adviser, Foreign Investment and Trade Policy Division

Mr John Lonsdale, General Manager, Financial System Division

Ms Jacky Rowbotham, Manager, Financial System Division

Mr Justin Douglas, Manager, Financial System Division

Ms Kanwaljit Kaur, Manager, Financial System Division

Mr Roger Brake, Manager, Financial System Division

Dr Steven Kennedy, General Manager, Infrastructure, Competition and Consumer Division

Mr Brad Archer, Manager, Infrastructure, Competition and Consumer Division
Mr Bruce Paine, Principal Adviser, Infrastructure, Competition and Consumer Division
Mr Andrew Deitz, Infrastructure, Competition and Consumer Division
Mr Paul McBride, Principal Adviser, Cities and Housing, Infrastructure, Competition and Consumer Division
Mr Paul Madden, Program Director, Standard Business Reporting Management Group
Mr Greg Divall, Program Manager, Standard Business Reporting Management Group
Ms Megan Bonny, General Manager, Stakeholder Management, Standard Business Reporting Management Group
Ms Helen Austin, General Manager, Chief Solutions Architect, Standard Business Reporting Management Group
Mr Geoffrey Turner, General Manager, Core Services Team, Standard Business Reporting Management Group
Mr Peter Martin, General Manager, Australian Government Actuary
Mr Michael Burt, Senior Adviser, Australian Government Actuary
Ms Susan Antcliff, Senior Adviser, 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, Assistant Statistician, Office of the Statistician
Mr Paul Lowe, Assistant Statistician, Population Census Branch
Mr Michael Belcher, Chief Financial Officer
Ms Janet Murphy, First Assistant Statistician, Corporate Services Division
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 Nigel Ridgway, General Manager, Compliance, Research, Outreach and Product Safety
Mr Marcus Bezzi, Executive General Manager, Enforcement and Compliance Division
Mr Mark Pearson, Executive General Manager, Regulatory Affairs Division
Mr Tim Grimwade, Executive General Manager, Mergers and Acquisitions Group
Ms Helen Lu, General Manager, Corporate Branch
Mr Adrian Brocklehurst, Chief Financial Officer
Mr Richard Chadwick, General Manager, Adjudication Branch
Mr Bob Weymouth, Acting General Manager, Enforcement Operations
Mr Michael Cosgrave, General Manager, Communications
Ms Michelle Groves, Chief Executive Officer, Australian Energy Regulator
Mr Sebastian Roberts, General Manager, Water

Australian Office of Financial Management

Mr Neil Hyden, Chief Executive Officer
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 John Trowbridge, Member

Mr Keith Chapman, Executive General Manager, Supervisory Support

Mr Senthamangalam Venkatramani, General Manager, Central Region

Australian Taxation Office

Mr Michael D'Ascenzo, Commissioner of Taxation

Mr David Butler, Second Commissioner

Mr Bruce Quigley, Second Commissioner

Ms Jennie Granger, 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 Ravanello, Chief Finance Officer

Australian Securities and Investment Commission

Mr Tony D'Aloisio, Chairman

Mr Greg Medcraft, Commissioner

Mr Michael Dwyer, Commissioner

Mr Justin Owen, Manager, Government Relations

Ms Kate Harvey, Senior Executive Specialist, Communications

Mr Barton Hoyle, Research Adviser to the Commissioner

Productivity Commission

Mr Gary Bank AO, Chairman

Mr Bernie Wonder, Head of Office

Ms Lisa Gropp, Principal Adviser, Research

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 Portfolio, the Resources, Energy and Tourism Portfolio and the Treasury Portfolio. The committee has set Thursday 1 April 2010 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. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public immunity should be raised. I incorporate the order in *Hansard*.

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)

CHAIR—The committee will begin today's consideration with the Australian Competition and Consumer Commission and will follow the order as set out in the program.

[9.02 am]

Australian Competition and Consumer Commission

CHAIR—I welcome Senator Sherry representing the Treasurer, and officers of the ACCC. Minister, would you like to make an opening statement?

Senator Sherry—No, thank you.

CHAIR—Does the ACCC have an opening statement?

Mr Cassidy—No.

CHAIR—We can begin directly with questions.

Senator EGGLESTON—I would like to ask a question about section 53C of the Trade Practices Act. Is the minister aware of the many products of a freight sensitive nature sold through advertising media press catalogues, TV and e-commerce, for example, bricks, mortar, plaster, fibro sheet roofing material, insulation, water heating systems and so on? Most metropolitan businesses have their goods delivered into stores on a free-in-stores basis as against a free-on-board basis for country areas. Many county franchises of county chain stores have catalogues which only have the free-in-store price rather than the free-on-board price. That differentially disadvantages stores in places like Kalgoorlie and Esperance in Western Australia, Alice Springs, Burke, Atherton, Townsville, Karratha, Broome, Tom Price and Christmas Island. Does the minister have any information about how many promotional groups are affected by section 53C? We think groups such as Home Timber and Harware, Thrifty Link Plants, Mitre 10, farm service groups, fertiliser sellers, Better Pets and Gardens and pharmacy chains are examples of stores which are disadvantaged by the fact they have to adhere to a catalogue price. Do you get the drift of what I am saying? The chain stores in the country are disadvantaged by a catalogue price set for metropolitan areas.

Mr Ridgway—The ACCC has considered some issues with respect to catalogue pricing and the interaction of the freight implications for some of the traders in remote areas of Australia as compared to those in metropolitan locations. The information that we have received suggests that there are a variety of ways in which products can be transported to these remote stores. The provisions in 53C grant an exemption from the minimum total price to be quoted for those components of the price that are not readily calculable where there could be some variation. So our understanding is that the catalogue advertising for those stores in remote parts of the country is not affected significantly when compared to those catalogues in metropolitan areas.

Senator EGGLESTON—That is not the information that I have been given by people who have chain stores, for example, in the north of Western Australia. They claim, in fact, that they are bound to sell goods at the price listed in the brochures and that that discriminates against rural, regional and remote locations around the entire country. So I put the question: does the minister believe that section 53C in its present form protects all consumers from profiteering by unscrupulous retailers who may be in the marketplace as against the true retailers who need to look after their limited market to survive in a somewhat depressed

marketplace? In other words, is 53C differentially benefiting metropolitan marketeers as against those in country areas?

Senator Sherry—My response as a minister is that I will have to take that on notice and refer it to Minister Emerson. The officials may have some view on it and I am more than happy for them to give their perspective.

Mr Ridgway—I simply add that we have had some discussion on this issue with traders who are based in remote parts of Australia. We have resolved the concerns of those that we have spoken with and provided guidance to at both the retail and the wholesale level. If there are others who have similar concerns we are more than happy to provide similar guidance.

Senator EGGLESTON—It is interesting that you provided guidance, because it does seem to be quite a significant issue in terms of financial impact on some of these chain stores in regional areas. Could you table on notice any documentation about the advice that you have given?

Mr Cassidy—We will take it on notice.

Senator EGGLESTON—Thank you very much.

Senator JOYCE—What action has been taken in response to the submission to the ACCC from DLA Phillips Fox on behalf of Video Ezy Australasia and the Franchise Entertainment Group concerning the increasing practice of making new release DVDs available to consumers at a sub-wholesale price dependent on a minimum grocery shop spend which is used to subsidise the DVD offer?

Mr Samuel—These matters are currently the subject of investigation. We do not comment any further on matters that under the process of investigation.

Senator JOYCE—If you had any concern, under what section of the Trade Practices Act would that concern be?

Mr Samuel—Again, I do not think it is appropriate to comment upon the matter. The matters have been referred to us at a number of levels, as you would be aware, and they are the subject of and in the process of investigation. I do not think it is appropriate to make any further comment because it raises all sorts of speculation, but they are being investigated at the current time.

Senator JOYCE—You cannot say when you think there might be some sort of further information about where the investigation is up to? Is it over months, years?

Mr Samuel—Of course you would be aware that the matters were referred to us just a little while ago and there has been the Christmas break period, but I can assure you that they are being investigated to determine whether or not there are any breaches of the Trade Practices Act involved.

Senator JOYCE—The ACCC takes seriously, though, the concerns raised in the submissions of 24 November and 3 December. What progress has been made in investigating various trade practices compliance issues that have been raised?

Mr Samuel—Does this relate to the same issue?

Senator JOYCE—Yes.

Mr Samuel—I think I responded sufficiently in the first answer. The matters are under investigation. Any matters under investigation are taken seriously.

Senator JOYCE—How will the ACCC properly and fairly examine the initial emergence of this practice and concerns about consumer protection, predatory pricing and anticompetitive conduct now that supermarkets have followed suit in the name of competition?

Mr Samuel—Again, you are asking me to comment upon the course of matters that are currently under investigation. As you are well aware after many years, commenting upon matters that are under investigation is not a practice we are prepared to engage in. So I think it is better left at that. In due course, if there are found to be any breaches of the Trade Practices Act that require further action, then that action will be taken and that matter will then become public.

Senator JOYCE—Are you concerned about this promotional offer?

Mr Samuel—Again, you are asking me to comment upon an investigation. The only comment I can make is to repeat what I have already said, which is that the matters are under investigation.

Senator JOYCE—I might then move to the ACCC's case selection and decision support framework. How does the commission choose which case to pursue and when to intervene? There appears to be some inconsistency in approach and limited market knowledge about what prompts commission interest and concern—for instance, the Karabar supermarket case in Queanbeyan compared to other grocery market concentration cases.

Mr Samuel—You are spanning different areas, of course, because the scope of the commission's activities is quite extensive. In the context of Karabar, it ranges to a discussion or analysis that was undertaken in respect of the merger provision in section 50 of the Trade Practices Act. Then there are other areas, of course, that relate to enforcement which I suspect are likewise the areas that you are perhaps focusing on in your question. I could go into all the other areas, but I do not think it is appropriate.

In the context of mergers, matters are brought to our attention either by parties notifying us that they wish us to review and to provide a clearance or otherwise in respect of a proposed merger, or we will learn of the merger, if parties have not notified us, from other interested parties. They may be competitors; they may be parties who have a vested interest in the merger; they may well be consumers. You would be aware that, on average over the past couple of years, we have reviewed in the merger area some 400-plus mergers, I think, many of which do not warrant a significant investigation—they are dealt with at general manager level—but a significant number of which are investigated by the staff in the mergers team and then are considered carefully by the merger review committee and, if appropriate, by the full commission before final determinations are made. There is a course of process involved there which is set out in our informal mergers process guidelines.

In the context of enforcement, we go through a series of stages. Many, many thousands of matters are referred to us each year, both through the info centre call line and through other processes—again, maybe competitors or consumers or information that staff or commissioners of the ACCC have picked up just in the course of their daily activities. Those

matters are then subject to an initial investigation and then, at an enforcement staff level, a determination is made of whether it is appropriate to escalate those matters into a more significant investigation. Then the process is pursued where there is a significant investigation, with time lines applied by the enforcement committee and appropriate references to the enforcement committee. In the event that litigation is contemplated, that goes before the full commission.

Senator JOYCE—Going back to the previous case but not specifically about the case, why would the minister advise representatives of the Franchise Entertainment Group that, while he understood the concerns about this emerging supermarket practice, he would not make any public comment or express any concerns as the ACCC was ‘fiercely independent and won’t act if the commission feels it has been politically pressured to so’? Is that the case?

Senator Sherry—That is a question relating to the minister’s comments. I will take that on notice and ask Minister Emerson. Whether the ACCC can shed any light on it, I do not know.

Mr Samuel—No, but I can observe that the minister correctly states that the ACCC is an independent agency. Except in accordance with the specific provisions of the Trade Practices Act, it does not, cannot and should not accept directions from any member of parliament, be they state or federal, of any political persuasion. The agency must operate independently, in accordance with its responsibilities and powers under the Trade Practices Act.

Senator JOYCE—But is it the case that you will not act if you are politically pressured to do so? Is that what happens?

Mr Samuel—I have not seen the minister’s comments and I cannot comment on what the minister has said but my understanding of the position is that we will not respond to political pressure or attend to political directions. That does not mean to say that we will not investigate a matter if a matter is drawn to our attention at the political level. But we will not accept directions from politicians and will not respond to those directions. We will act in accordance with our responsibilities and duties under the Trade Practices Act.

Senator JOYCE—It is not a matter of you will act or you won’t act; you are independent so the minister can say what he likes.

Mr Samuel—That is correct.

Senator JOYCE—In that case, how can a minister expressing an interest in consumer protection against potentially anticompetitive conduct and the importance of enforcing trade practices laws be counterproductive in terms of the ACCC’s conduct in discharge of the commission’s responsibilities?

Mr Samuel—I am not sure what you mean by the minister being counterproductive.

Senator JOYCE—The minister has said that he cannot comment on an issue because it would put political pressure on you and therefore you would not act. You have clearly stated that that is not the case. So how can it be, as the minister has stated, that he cannot comment on things because it puts political pressure on you?

Mr Samuel—You should refer that to the minister. Or it can be taken on notice.

Senator Sherry—I will take that on notice.

Senator JOYCE—Is the commission prepared to publicly present the key selection and intervention criteria applied by the ACCC in the selection of cases to act upon, and explain how the decision support framework works to help achieve the ACCC's purpose and responsibilities?

Mr Samuel—That has been done for many years in our annual reports, on our website and in countless speeches that various commissioners—including me—have made over many years which outline the criteria that we adopt in dealing with enforcement matters, the criteria we adopt in elevating a matter to litigation if appropriate, and the processes we adopt. These have been the subject of many public exposures through our annual reports, our website and speeches.

Senator BRANDIS—Are these decisions to proceed with litigation still made by the enforcement committee?

Mr Samuel—As I indicated, the decision to proceed to litigation is made at first instance by the enforcement committee but all decisions to proceed to litigation must be referred to the full commission.

Senator BRANDIS—Does the enforcement committee have its own internal protocols or criteria?

Mr Samuel—Yes, it does, but they are the criteria that are set by the full commission. The enforcement committee exercises a discretion, but a discretion within guidelines that are established and, I think, set out on the website.

Senator BRANDIS—The criteria that the enforcement committee apply are a public document set out on your website?

Mr Samuel—Yes.

Senator BRANDIS—There is no other internal, more specific set of protocols?

Mr Samuel—No, but these are a matter of discretion, and a practice evolves. These are not static. The criteria are set out on the website, and in many speeches given by commissioners which indicate the process and course of conduct to follow.

Senator JOYCE—With all the accumulated knowledge that you now have around 46(11A)—the Birdsville amendment—do you feel that you are now in a position to issue guidelines or information guides regarding—

Mr Samuel—I was half anticipating this question, given that it has been asked on several previous—

Senator JOYCE—I had to wait three minutes until you turned up.

Mr Samuel—You made us wait in eager anticipation of the question. I am also waiting for the question about the various statistics, which we have handy here for you, Senator.

Senator JOYCE—Why don't you just give them all in the one roll.

Mr Samuel—On the issue of guidelines, we have discussed this previously. The business community and their legal advisers are not devoid of knowledge or of information as to the meaning of the various provisions of section 46, and in particular what you are interested in,

the Birdsville amendment. The Birdsville amendment, however, is going to require at some stage some interpretation by the court. The court interpretation is going to relate to a number of factors that are somewhat new in the context of the Trade Practices Act. We have discussed this on previous occasions so I am sure you will both be delighted to hear me repeat it. We have to have a definition by the courts of what is a substantial share of the market. We have some views as to that, and the views that we take are views that are more robust with a view to having these matters ultimately tested in the court. But we need to look at the issue of what is a substantial share of the market.

We need to then look at what is a 'sale below relevant costs', and you will have as many views on that as there are economists. We have had discussions and debates on that periodically over the past year or so since the legislation has been in force. We then have to get a legal definition of what a 'sustained period' is. I could enter into a long debate with you, which I am sure time will not allow, as to what the various interpretations are of what a 'sustained period' might be. But, again, at the enforcement level we are adopting a robust attitude to that with a view to potentially testing it at a point in time when we may not be absolutely certain that we have got a case that can be sustained in the context of 46(1AA). The most difficult area, of course, is the purpose test. It is the same purpose test that has always applied in respect of the provisions of misuse of market power in section 46. That purpose test has long been defined, but, of course, in each case it depends upon the intentions of the party as evinced through the evidence, and that will be decided on a case-by-case basis.

Senator JOYCE—You are going to be surprised that I say this, but I appreciate that—I do believe that you are actually working down that path. Obviously the agenda that the Australian people want to know about is: when do we get to the day when we can encapsulate and say, 'This is the law of the land and this is how it is going to work.' So just on that purpose: has the commission relied on the Birdsville amendment to call into question possible predatory pricing cases?

Mr Samuel—Yes. When you say 'relied upon', are you asking whether we have examined the potential application?

Senator JOYCE—Yes.

Mr Samuel—The answer is yes.

Senator JOYCE—Thanks. I will leave that behind now. Have we had any successful cases? We have not had any successful cases yet under the—

Mr Samuel—No, not under the Birdsville amendment. But in order to give you some sense of hope, let me say that we are—

Senator CAMERON—He needs every sense of hope he can get!

Mr Samuel—I always like to give a Senator Joyce a bit of hope on his beloved Birdsville amendment. In order to give you some sense of hope, I can say to you that we are gaining a further level of intelligence as to where the amendment might apply, particularly in the context of the first three tests that we have talked about: substantial share, sale below relevant cost and the sustained period. I think the issue is always going to be one which you would expect to be an appropriate issue to be determined in the context of both the law and the

economics of Birdsville, and that is the purpose. While you might be able to demonstrate, for example, a sale by a party having a substantial market share below cost, even for a sustained period, it is most often the case that the relevant purpose as described in section 46 and 46(1AA) is one that could not possibly be satisfied.

Senator BRANDIS—Have there been any cases before the enforcement committee potentially involving the Birdsville amendment where there has been a decision made by the enforcement committee—or, indeed, the full commission—not to proceed with the case?

Mr Samuel—Let me answer that in this way, if I can: there have been many references to us both through the info centre and other processes of complaints—Senator Joyce is anxious to get the numbers, and I will give them to you—that the Birdsville amendment is being breached. They have been the subject of investigation and have gone through various stages. Many of those allegations of breach have failed at the initial investigation stage. They have not satisfied—

Senator BRANDIS—Most do, don't they?

Mr Samuel—Yes, most do. I think I have indicated previously that the percentage of what I will call advanced investigations relative to initial investigations in the context of the Birdsville amendment is far higher than applies across the board. So that will give you an indication of the robust attitude we are adopting to the Birdsville amendment. But—

Senator BRANDIS—Let us test it this way—

Mr Samuel—Perhaps I could just give you the conclusion to that answer. At a point in time, the investigation will reveal quite clearly that one or other of the four tests that I have outlined, in particular the purpose test, could not possibly be satisfied. I do not want to indicate whether investigations might currently be in train that might lead to a potential litigation—that would be inappropriate—but suffice it to say that in many cases one of those four tests fails.

Senator BRANDIS—Test the answer to my question in this way. Has there ever been one or more occasions where the enforcement committee has actually had on its agenda consideration of a particular case which might be the first Birdsville amendment case and decided not to proceed with that particular case?

Mr Cassidy—If I understand your question, I cannot recall and I think I am right in saying that it has not happened where the investigators have believed there is a case in relation to Birdsville and the enforcement committee has decided not to proceed with it. What has been happening is that we have been undertaking a number of investigations in relation to predatory pricing and they are simply not proving up. So an enforcement committee has been overseeing these investigations, but they do not actually get to a point of saying, 'Here we are; we believe we've got a case,' because they simply do not prove up on the factors that the chairman referred to earlier. In particular, we are getting a lot of complaints which relates to sales, short-term promotions and those sorts of issues where, in our view, we would probably struggle to argue that it was a sustained period.

Senator BRANDIS—On another way of approaching it, my inquiry might be to ask this: have there been any cases where a potential or a possible Birdsville amendment issue has

been sufficiently serious that counsel's advice has been obtained by the commission as to whether the Birdsville amendment could be relied upon on that occasion?

Mr Samuel—Yes, there have.

Senator BRANDIS—How many?

Mr Samuel—I would have to take that on notice.

Senator BRANDIS—Is it many? Is it half a dozen?

Mr Samuel—Not many but several, whatever several might mean.

Senator BRANDIS—May I take it from the fact that there have not been many cases that on each of those occasions counsel has advised against reliance on the Birdsville amendment?

Mr Samuel—Sorry, I was not sure if there was a double negative there. Could you repeat the question?

Senator BRANDIS—Perhaps there was. In each of those cases was the advice from counsel that the prospects of invoking the Birdsville amendment were not good?

Mr Samuel—Let me state quite clearly: there has not been a case put to the enforcement committee where the recommendation of staff or of counsel has been that a Birdsville case ought to be pursued. Whether by way of litigation or by way of alternative enforcement remedy, there has not been the case put before us where the enforcement committee has rejected that advice and not proceeded.

Senator BRANDIS—Thank you.

Senator JOYCE—How many cases have actually been presented to you?

Mr Samuel—Between 18 September 2007 and 31 December 2009, the ACCC have recorded 378 contacts relating to predatory pricing, comprising 349 alleged predatory pricing complaints and 29 seeking information about the Birdsville provision. We had a spike in complaints, as you would expect, towards the end of 2009 relating to the DVD issue because, as you know, there was quite an organised campaign of letters that came. I cannot tell you how many, but there were very many letters, so that is reflected in those numbers. Seventy-two potential predatory pricing matters were reviewed at the initial investigation stage. That is 20.6 per cent of the total predatory pricing complaints received by the ACCC during this period. That is significantly higher than the average of 13.6 per cent of all part IV complaints that reached the initial investigation stage during the same period.

Senator JOYCE—On the subject of banks, according to the Reserve Bank of Australia the net interest margins of the four major banks have grown in the past year. Does that provide evidence that the four major banks are not competing as vigorously as they could?

Mr Samuel—No, it does not. We could go into a long discussion about competition in the banking market, but perhaps I can try to summarise it in this form—and, if you want a very convenient summary of it, I would perhaps refer you to an article that I wrote that was published in the *Australian Financial Review* that gave a very short summary—

Senator JOYCE—Was that your article today?

Mr Samuel—No, that relates to a speech I gave yesterday. This article appeared two or three weeks ago in the *Australian Financial Review* on competition in the banking market. It went through a whole range of the factors that, in our observation and on the analysis we have undertaken, have affected competition in the banking market, primarily relating to the exit or the withdrawal or the diminution of presence of a whole range of lenders who were significantly adversely affected by the global financial crisis. In the corporate business and institutional market, there was the exit or withdrawal in part by a number of foreign bank lenders, who are starting to come back into the market in a more normal way. In the residential mortgage market, which has probably had the greatest level of publicity, an important factor was the exit or withdrawal or diminution in involvement of the regional banks and the non-bank financial institutions, of which there are many, who, according to Reserve Bank statistics, provided the true competitive tension in terms of the major trading banks in the residential mortgage market.

Senator JOYCE—So the diminution of these alternative lenders has reduced competition and allowed a market to exist where there is the capacity for the greater exploitation of a margin.

Mr Samuel—I would not want to get into a debate about whether that has permitted the major trading banks to increase their margins. There have been increases in margins, but I think again, as the Reserve Bank demonstrated, particularly in a paper it published on, I think, 15 December last year, there have been significant increases in costs and at present we are observing some significant competition by the major trading banks for deposits. It is that competition for deposits that is forcing up their costs of funds, which is then, of course, forcing up the interest rates they are charging.

Senator JOYCE—Why is there more significant competition for deposits?

Mr Samuel—I think that is a matter you perhaps ought to address to the banks; I can only offer observations.

Senator Sherry—I think Treasury could give you a detailed response. My understanding—and I am not going to go into enormous detail in the absence of Treasury; we have not reached that part of the estimates program—is that banks in Australia borrow a substantial amount of their capital from overseas, so it would seem to me logical that they would not want to lift their fundraising within Australia.

Senator JOYCE—They have to pay more to get the deposits domestically too, don't they?

Senator Sherry—That would seem logical, but we can explore that issue when we get to Treasury.

Senator JOYCE—I wonder who their major competitor is domestically.

Senator Sherry—It is not an issue for the ACCC.

Senator BUSHBY—They have gone from 68 per cent of household deposits in June 2007 to 82 per cent in June 2009. It shows that their aggressive chasing of deposits has actually cornered the market to a significant extent.

Senator JOYCE—They are also competing against the government, which has \$122.01 billion in gross debt.

Mr Samuel—Again, they are not matters that we can comment upon; I can only offer observations.

Senator XENOPHON—You have been on record saying you were concerned about the potential distortions that could occur with the bank guarantee in terms of the impact on small lenders, though. That is a matter of record on your part.

Mr Samuel—I think I observed that there were a whole range of factors following the GFC that were impacting upon the participants in the competition levels in the banking and finance market. We can deal with each of those in turn, but these are matters that we have to take into account in looking at one issue only, which is mergers in the banking and finance sector. Of course, we do just that, but it has been necessary for us to undertake some study as to what is occurring in the banking and finance market to try to understand the dynamics that currently but, more importantly, may in the short to medium term affect the competitive dynamic in the banking and finance market.

Senator JOYCE—Would the commission consider that the ability of the four major banks, as it is at present, to raise their rates above RBA official rates provides strong evidence of the growing market power of the four major banks?

Mr Samuel—I do not think it is appropriate for us to comment upon that. Let me repeat: our role in relation to the banking and finance market—the finance industry generally, if I could call it that—is to deal with potential mergers under section 50 of the Trade Practices Act. That necessitates us examining the potential competitive dynamics in the market, both currently and in the foreseeable future. But, whether it is appropriate to make any observations about this sort of issue, I am not sure that is within our expertise.

Senator JOYCE—Do you have concerns about the major banks buying out regional banks?

Mr Samuel—I have already expressed some views about that publicly and indicated that we would view with concern and subject to a very rigorous examination any future proposals that were put to us for further consolidation or concentration in the banking and finance sector. That does not just apply, I might say, to the regional banks; it also applies to non-bank financial institutions and to issues of wealth management. As you would be well aware, we are currently examining the potential acquisition of aspects of the AXA Group by prospective acquirers NAB and AMP.

Senator JOYCE—That was my next question: do you have concerns about the centralisation of the wealth management market?

Mr Samuel—I do not think it is appropriate to make too many comments on that at the moment, pending the release of any further steps that we might take in relation to the acquisition of AXA by NAB or AMP. But I think that when we publicly indicate our views on those prospective bids you will get a far greater indication of our attitude and the analysis that we are undertaking in relation to that particular market of wealth management.

Senator HEFFERNAN—Are you aware of the turmoil in the fertiliser market at the present time?

CHAIR—Senator Heffernan, if we are off that topic Senator Pratt has a question.

Senator HEFFERNAN—Can we go to fertiliser later on?

CHAIR—Certainly, if there is time.

Senator HEFFERNAN—Every farmer in Australia is getting it up the back passage now.

CHAIR—I will put you on the list, Senator Heffernan.

Senator Sherry—Chair, I think I heard one of the opposition senators indicate that they had further questions on this issue, so I think—

Senator BUSHBY—Yes, on wealth management.

Senator Sherry—Switching from wealth management to fertiliser and back to fertiliser and then back to wealth management might be a little—

Senator RONALDSON—Some would say that there is a great similarity, Minister!

Senator Sherry—Between fertiliser and wealth management? I am not so sure!

CHAIR—So let us go to wealth management.

Senator BUSHBY—I heard you mention that a current inquiry is into the proposed takeover of AXA by AMP and also, separately, by NAB. There were media reports last week which indicated that the decision was impending—I think it was last Friday—but obviously that has not occurred.

Mr Samuel—No, these are published on our website, but I think our time lines indicated that there is an expectation of some determination today, didn't they, Mr Grimwade?

Mr Grimwade—Yes, in relation to the bid by AMP.

Mr Samuel—Yes, AMP. On the time line NAB is, I think, currently scheduled for 18 March.

Mr Grimwade—It is scheduled for 17 March.

Senator BUSHBY—That will be released later today? It is not going to be released while you are sitting in this room?

Mr Samuel—I do not think it is appropriate to comment upon it. All I would say is that the published time line indicates that there will be some indication of our position in respect of the AMP AXA bid today. This is not to give you any indication of our position, but I should also add that the time lines can be subject to variation in certain circumstances.

Senator BUSHBY—In a general sense, without speaking in particular about either of those investigations you are currently looking at, what are the considerations of concentration of the financial services market that you would be looking at? In particular, how would the growing influence of the major banks in wealth management play into them?

Mr Samuel—I would prefer to take that on notice for the very good reason that this issue of NAB and AMP and AXA is very market sensitive at the moment. The markets have come alive right at this present time, and I think it would be inappropriate for me to be making general comments that might be misinterpreted—or interpreted, as the case may be—by market observers and lead to some sensitivity in trading in the shares in the various entities concerned. So, if I could take that on notice, I think you will be assisted in understanding our

analysis and our views on this subject when you see the public determinations that we make as we make them. But they need to be very carefully phrased and expressed in order not to cause inappropriate movements in market prices.

Senator BUSHBY—I will ask you a question in a minute which relates to that. I understand why you want to make sure that what you say is very carefully phrased. It will be a question that you were expecting, no doubt, but I will ask it in a second. I take your point that you will provide the answer to that question on notice, but I note that in respect of the AMP takeover of AXA, you did go to the extent of actually writing a three-page letter to all financial service providers in the country asking them their views, which, although not necessarily unprecedented, shows that you are taking the potential for competitive issues to be impacted by this change quite seriously, in particular with reference to this market. So I will read with interest what you have to say in your report when it does come out. Would those considerations be any different in a general sense—and you may want to take this on notice as well—when you are looking at AMP taking over AXA compared to one of the major banks taking over?

Mr Samuel—You will clearly understand why I will take that one on notice.

Senator BUSHBY—There are different considerations, I would imagine, that you would have to look at as part of—

Mr Samuel—I will take that on notice. As I said, many of these questions may or may not be answered when we make our public determinations with respect to those matters.

Senator BUSHBY—There is a question, as I mentioned, that I am sure you are expecting, on wealth management. You had a reference that there was unlikely to be further market concentration. That is a phrase in the merger register for the ACCC approved ANZ takeover of ING. This was subsequently deleted some time later, after it was apparent that other major concentrations in those markets were imminent. I note that you made some comments justifying that—that you were specifically only talking to the potential impact of that particular merger, on concentration in the market. With respect, I would have thought that the phrase used—‘there was unlikely to be further market concentration’—was clearly open to the conclusion that was drawn by the media and that it is incumbent on an organisation like the ACCC to ensure that its statements are accurate and not open to misinterpretation—to quote you. Would you like to explain to us the circumstances surrounding the withdrawal of the statement on the merger register?

Mr Samuel—The entry in the merger register in the first place was unfortunate. I regret that on behalf of the commission. It was unfortunate in that it was capable of misinterpretation. The deletion of the entry in the register was equally unfortunate and regrettable. I regret that on behalf of the commission as well. It was not done with the knowledge or direction of the commission as such; it was done at a staff level. The entry and the deletion were mistakes, if I might say so, and they were so in this sense: the initial entry should have had the words ‘as a result of this acquisition’ to make the sentence complete. The omission of those words lead to a misinterpretation of that entry in the register in an article by Mr Cornell, I think, in the *Australian Financial Review* just before Christmas. It was that misinterpretation by that journalist, which he can be forgiven for doing, which led to a

decision being made to delete the words in the register. That decision was taken without the knowledge of commissioners. Frankly, if we had been consulted on the thing, I think that the better course of action would have been to add the words ‘as a result of this acquisition’ so as to correct what was an entry that was capable of misinterpretation. The first I heard of it was at the time that the matter was drawn to my attention by the journalist in the *Financial Review*, Matthew Drummond. I was, frankly, taken aback by it and concerned, as was Mr Grimwade, who heads up the merger and asset sales division of the commission. All I can say is that it was a regrettable entry; it was a regrettable deletion. Processes have been put in place to ensure that that does not happen in the future, but I fully accept responsibility for it.

Senator BUSHBY—It may have been regrettable, but the potential interpretation that could be cast upon that particular phrase firstly indicates that you misinterpreted the market and, secondly, that you tried to cover it up.

Mr Samuel—To go back to your question, I think you indicated in the course of your question that the change was made when it became evident—

Senator BUSHBY—At a time when it became evident, not as a cause—

Mr Samuel—Yes. The cause of the change was the misinterpretation which, as I said, was a misinterpretation that one can be forgiven for making—by Mr Cornell of the *Financial Review*, as to what it meant.

Senator BUSHBY—I imagine that the timing was relevant in the sense that it actually led to the misinterpretation being made.

Mr Samuel—That is right.

Senator BUSHBY—I have a question on a separate matter, and this is the one that—

CHAIR—Could we go to Senator Pratt first and then I will go back to you.

Senator PRATT—There has been a recent announcement with respect to supermarket leases. What is the significance of the agreement that has been reached?

Mr Samuel—We have gone through almost a clean sweep of the significant supermarket chains, starting with Coles and Woolworths and then proceeding to the second-tier operators, Aldi, Franklins, Farmers—a few of them have been involved. The process that we adopted was that we said initially to Coles and Woolworths, ‘The restrictive covenants that exist in a number of your leases’—some 700 Coles and Woolworths leases—‘with shopping centres are, in our view, a constraint of competition.’ I used those words ‘a constraint of competition’ very carefully because we had determined and discovered the existence of these restrictive covenants during the course of the grocery inquiry. We spent some months analysing the leases concerned and whether or not those restrictive covenants amounted to a breach of the Trade Practices Act.

I have said on many occasions—and I will repeat here for the record—that the conclusion of that investigation was that there were very few of those restrictive covenants which would have amounted to a breach of the Trade Practices Act. Therefore there were very few of those covenants that could have been rendered void or invalid by the process of litigation and the like. What we did—and I have to say we did so in conjunction with the backing of the minister, and I will explain what that means because it is important to understand—was to

approach the major supermarket chains, Coles and Woolworths, and say, 'We think these covenants have to go, we think they have constraints on competition. If you agree to voluntarily remove them by the process of a section 87B enforceable undertaking then that will suffice. If you don't then there are other courses of action that the government may take which could involve a form of mandatory code of conduct or legislation, as the case may be.' The major supermarket chains agreed that the restrictive covenants should go. In respect of longstanding covenants they said they would go immediately. In respect of very recent covenants—that is, those entered into where the starting date of the supermarkets was less than five years previously—they are to be unwound over this period of five years. The supermarket chains also agreed that there would be no further covenants entered into of the nature of those that I have described.

The next stage was to go to the second tier of supermarket chains and we have done that. They were the subject of the announcement the other day. We secured from them undertakings in almost exactly the same substantive terms. So now we have done almost a clean sweep. There is a third tier of supermarkets that we will deal with appropriately over the next short while, but we are left with very few. The important part of it is that it does allow landlords, if they consider it commercially appropriate, to permit and to make available space within their shopping malls and shopping centres for competitors in the food, grocery and supermarket area.

Importantly that is allowing the expansion of Aldi because Aldi has now been given the opportunity to enter shopping malls or shopping centres which were previously off-limits to it as a result of these restrictive covenants. It has become well known that Aldi—I am not here to advertise for Aldi—through its specific business plan of a limited number of items but at very low prices, home brands—is providing a competitive tension to Coles and Woolworths and other supermarket operators—IGA, Supabarn and the like—in respect of the items that they sell. That has proved to be an important competitive tension. We demonstrated that in the grocery inquiry and I think it has been demonstrated in a number of surveys that have been taken since.

The whole purpose of this is to remove the artificial constraints on competition and to essentially say to those that are selling fresh food and groceries, 'Compete on the basis of price, compete on the basis of quality of service, compete on the basis of convenience, but don't artificially constrain competition by the use of restrictive covenants preventing your competitors from competing against you.'

Senator PRATT—You said that longstanding leases that have already existed for more than five years will be lifted immediately. Could you clarify that?

Mr Samuel—That is right.

Senator PRATT—So some of the historical problems that have come before this committee in the past in various examples from various shopping centres around the country should now be immediately fixed?

Mr Samuel—Yes, in our investigations that we undertook as part of the grocery inquiry. In the course of that, by the way, we subpoenaed and received details of leases that were held by Coles and Woolworths in—I think the exact number was 757—shopping centres. We

discovered that there were restrictive covenants that in some cases ran for five years but in other cases might have run for up to 40 years. They were simply inappropriate. Whether they were a breach of the Trade Practices Act, though, is another issue. They certainly had the potential to constrain the competitive dynamic, but I have to say to you that there are only very few cases where our investigations determined that they might actually breach the Trade Practices Act.

Senator PRATT—The decision seems to allow competition for other supermarkets to enter into a complex. I just want to clarify that it would include stores of a variety of natures, as opposed to just supermarkets. We had an example come before this committee just a few weeks ago where a local dairy co-op wanted to set up a dairy produce store at a local supermarket and they were denied the opportunity to do that. So it is not just other supermarkets that have opportunities as a result of this decision?

Mr Cassidy—The 700-odd restrictive covenants that we have examined did tend to apply to other supermarkets. There may be issues as far as particular shopping centre landlords are concerned as to whether they would allow a particular store to enter a particular shopping centre. But that is not a product of a restrictive covenant in the supermarket lease.

Senator PRATT—It was put to us that it was pressure from the supermarket that denied the dairy co-op. I was unclear about whether it was actually a covenant or pressure from the supermarket that meant that that co-op was not allowed access to the shopping centre to rent space. To what extent does this decision fully protect potential future retailers from that kind of problem?

Mr Samuel—We need to understand that there were legal constraints imposed on landlords by the restrictive covenants. They are now removed or will be phased out over the next four or five years, as the case may be, for a small number of them. There are commercial constraints that landlords will impose on themselves in their determination of the mix of the products and services that are provided in the shopping centre and in the allocation of space and the like. The third element that you have referred to is, as you have described it, pressure. We often hear about the pressure that is applied. But if landlords take a view that they do not see a commercial advantage in having a particular outlet in a shopping centre or using up space in a particular location, as the case may be, then that is a view that they can take and it is their own choice. If there is a restrictive covenant there is a legal pressure that applies.

Senator PRATT—You would expect under those circumstances that the landlord would have just given a flat no at the outset, but as I understand it sometimes the negotiations are underway. So it would seem that the landlord is open to the possibility of a new retailer coming in, but then through the course of the negotiations things change. Are you saying that it is appropriate for that commercial consideration to change midway through because the supermarket has put the landlord under some kind of pressure?

Mr Samuel—What I am interested in is the sort of pressure that the supermarket might be able to apply. The supermarket can say, 'If you allow a dairy outlet into the shopping centre we'll leave,' but that would be a very strange commercial decision on the part of a major supermarket chain to make.

Senator PRATT—It would.

Mr Samuel—The supermarket chain might say, ‘If you put a dairy outlet into this shopping centre, when it comes to our next rent negotiation we’ll play hardball’—you would expect them to play hardball in any event—and the rental determination will be made according to a whole range of other factors. I am not sure what sort of pressure can be applied. There is a countervailing power on the part of the landlord who says, ‘I have got a shopping centre. You’re trading here and you want to continue to trade here, Major Supermarket Chain. I will make my own decisions about the mixture of tenants that I put in the shopping centre.’ So there is a countervailing pressure involved. I just query what sort of pressure the major supermarket might be able to apply.

Senator PRATT—Yes, I understand that. I can see that with this decision any landlord would welcome a new major retailer that is able to provide, I suppose, a new supermarket presence within their complex. Clearly that would be a commercially successful thing to do. I suppose this discussion has highlighted to me that the extent to which smaller retailers might be protected could still have further exploration. Thank you.

Senator XENOPHON—Just as a supplementary question, Mr Samuel, further to Senator Pratt’s final question: one of the concerns expressed by Associate Professor Zumbo was that, in relation to Coles and Woolworths, only about 80 per cent of the restrictive clauses in shopping centre leases were removed. That leaves about 20 per cent. Can you clarify: is there a phase-out date for those remaining restrictive covenants or are we stuck with those?

Mr Samuel—No. There is a phase-out in respect of covenants that were entered into where the starting date of the supermarket is less than five years. There is a very good reason for that. I need to go back. I must say that I become really concerned about the advice that Associate Professor Zumbo gives you, Senator, and gives the public at large because—

Senator XENOPHON—In relation to what?

Mr Samuel—In relation to this issue, because it beggars belief that he does not understand what the law is on this matter. Before you came in, or just recently, I observed that of the 757-odd restrictive covenants a very small number could be dealt with as potential breaches of the Trade Practices Act under the law. So we are going to the major supermarket chains and saying—and they know; they have their own legal advice—that, of the 757 restrictive covenants that are in existence, there is a very small number that we could, if we really wanted to test the law, have declared invalid or unenforceable in the courts.

What we are saying to the supermarket chains is, ‘But we want you to get rid of all 757.’ They are saying: ‘Yes, we are prepared to do that but we’ll do it on the basis that there are certain covenants that were entered into very recently and that there would be a free riding by the landlord if those covenants were to be removed immediately because they were entered into in good faith, in an understanding of what the law provides, and you are asking us now in good faith to remove those covenants. But what you are also saying is that, having set up a supermarket less than five years ago—having agreed to pay a rental and entering into that agreement less than five years ago—you are now going to remove that arrangement from us, or you want us to voluntarily give up that arrangement, and to allow the landlord then to potentially free ride by putting in another supermarket as the case may be.’

We have said to the major supermarket chains and to the second tier that, in the interests of reaching what we thought was a global agreement that would, frankly, clean sweep all these restrictive covenants out of existence, we were prepared to accept that those entered into within the previous five years should be allowed a phase-out period but only for the expiry date of that five-year period. So, since that agreement was entered into by Coles and Woolworths, there may well be a number of those restrictive covenants that have since abated as a result of the expiry of time. They will continue to transition out of the system over the next two or three years and the end point will be five years from the date of the undertaking, which I recall is about August or September last year.

Senator XENOPHON—So, in a sense, both you and Professor Zumbo still agree that the ultimate end point, though, is getting rid of restrictive covenants eventually.

Mr Samuel—But that was always the case. Where I take issue with Associate Professor Zumbo is that he seems to say, ‘Look, you should have got rid of them all.’ But, forgive me, when you are dealing with a law that says you can get rid of a very small number—and I will not identify how few it was but it would not take too many hands to count them—then it seems to me disingenuous to then say publicly that what they should have done was got rid of the whole lot when the law did not just frankly allow you to do that.

Senator XENOPHON—Chair, I have some questions on uniform pricing. Is this an appropriate time? I am happy to wait.

CHAIR—No. I have Senators Bushby, Heffernan and Macdonald on the list. We are getting short of time.

Senator BUSHBY—I am happy to wait. Mine are short.

CHAIR—Okay. We will go to Senator Heffernan and then we should be able to get back to you.

Senator HEFFERNAN—Mr Samuel, are you aware of the turmoil in the fertiliser market at the moment?

Mr Samuel—I will refer these questions to Mr Cassidy, who is much more familiar with the area.

Senator HEFFERNAN—Mr Cassidy, since we last met and you gave evidence, we have heard evidence from Incitec Pivot. I think, Mr Samuel, you would agree that the consolidation of the fertiliser market was a mistake.

Mr Samuel—No, I would not agree with that, Senator. There have been a range of discussions that we have had in committee here—and I have not been a participant in those—that have indicated that a number of other factors have affected fertiliser prices in Australia. Perhaps I will go to Mr Cassidy.

Senator HEFFERNAN—But, if you have got 73 per cent of the wholesale market and 100 per cent of the manufacture, do you not think that you have got market power to the point of a monopoly power?

Mr Cassidy—I am not quite sure how long we are going to spend discussing something we discussed in the fertiliser inquiry.

Senator HEFFERNAN—Well, there is 73 per cent on the eastern seaboard.

Mr Cassidy—But the answer is that, depending on the level of imports, no.

Senator HEFFERNAN—Okay. So actually 100 per cent of the requirement for Australia of MAP can be manufactured in Australia by one person?

Senator Sherry—Just before we go on, a procedural matter: is the inquiry still going on? Is it at a head?

Senator HEFFERNAN—No.

Senator Sherry—It is finished, is it?

Mr Cassidy—It finished its report and the government is considering it.

Senator HEFFERNAN—No. It is about to start again, though. I could read out the Incitec Pivot blurb that they have sent out to their producers. It says: ‘No doubt the recent price rises will be met with some concern by farmers and dealers alike. The market internationally has risen 15 per cent in December and January.’ If you recall, Mr Cassidy, they said they shut the plant at Bendigo because they could not sell 300,000 tonnes of single super, which is an entirely Australian manufactured product. What have we got now? Today, all around New South Wales no supplier can get a guaranteed order because they have said the inventory is empty. The international price for Black Sea MAP has gone up 15 per cent. The market here for MAP has gone up 40 per cent. It has gone from farm price delivered \$568 in December to \$795 today. They put it up another \$50 a tonne yesterday.

They said they could not sell single super when it was \$420. It is not an international product; it is a local product. They said, ‘We’re shutting the plant,’ and, as you would recall, they said, ‘We are not sure whether we are going to reopen it.’ They now say there is nothing in the inventory so they are going to import single super because they have shut the plant. This is market power at work. Single super has gone from \$280 a tonne before Christmas to \$415 now. I think that is an absolute up-the-back-passage attack on Australia’s farmers. The suppliers are beside themselves. Incitec Pivot put an ad in the *Land* last week trying to explain themselves.

CHAIR—Senator Heffernan, I understand you are doing the background but we do have a number of other senators—

Senator HEFFERNAN—Well, are you prepared to have a another look at the consolidation of market power, given that at the present time if you are at Marrar, Wagga, Parkes or Cowra you cannot actually get supplied? They say to us, ‘We can’t even price it until it is on the boat over in the Black Sea.’ Yet there are one million tonnes manufactured at Mount Isa, where they will not even open the gates—

CHAIR—Senator Heffernan, can we get to the question as it relates to the ACCC, please?

Senator HEFFERNAN—Where are we going to go? You said to me, Mr Cassidy, that unless there was predatory behaviour you were not interested. Well, there is predatory behaviour. Funnily enough, the price of fertiliser through the three major suppliers—and I will not name them—went up on the same day.

CHAIR—Thank you. Mr Cassidy?

Senator Sherry—Chair, just before Mr Cassidy answers, I am advised that the committee has not reported to the Senate yet.

Senator HEFFERNAN—No. That is not right. It was a long time ago. We have. I am the chair, mate.

Senator Sherry—I am just seeking clarification.

Mr Cassidy—Senator, I think you will acknowledge this from the previous inquiry: if someone comes to us with a complaint about what is going on in the fertiliser market we will happily look at it and investigate it. We have not had anyone come to us with any complaints recently in relation to the fertiliser market. We are still looking at some of the issues that came out of the inquiry but, basically—and maybe we have made a rod for our own backs—we are not responsible in a sense for fertilisers or the fertiliser market. We are responsible for enforcing the law. If someone believes that there has been a potential breach of the law they need to give us information and we will investigate it.

Senator HEFFERNAN—But, with great respect—and I would not have your job for quids; you are more restricted than I am—

Mr Cassidy—I would not have yours!

Senator HEFFERNAN—we did allow the consolidation of the market. We now have a situation with Incitec Pivot where the profit centre for the only production in Australia, at Mt Isa—a million tonnes a year of MAP—have now defined themselves internally as a profit centre and are riding the global market, as it were. No-one in Australia can order fertiliser three months ahead, as you used to be able to under the old arrangement, for delivery three months down the track at a firm price. You do not get the price until the truck is loaded. In a lot of cases right now—and there are people from Temora who will be interested in this—

CHAIR—Senator Heffernan, again, this is interesting, but—

Senator HEFFERNAN—They are sending trucks to the wharf to load them and they are not being loaded. They are sending the trucks home empty. That is what I call market power being abused. So I will put you on notice now that we will be calling you, because, as we said, we will have a watching brief on this. It is a disgrace that, in Australia, that sort of market consolidation can abuse market power—

CHAIR—Thank you, Senator Heffernan. Senator Macdonald.

Senator IAN MACDONALD—Just very, very briefly. I know the ACC have been involved in this alleged unconscionable conduct by Mercedes Benz in relation to franchisees. I have written to the ACCC about Mercedes Benz franchisees in Queensland. The focus of the ACCC seems to be to protect private citizens from big business. Is there any culture or principle or ability of the ACCC to look at protecting small business from big business, particularly in relation to the franchisees? I know you are aware of alleged misconduct by Mercedes Benz in any number of ways, but it seems very difficult for you to take action.

Mr Samuel—Let me first of all perhaps widen the scope of our activities and our responsibilities as you first described them. While there is a lot of publicity about the consumer protection matters that we deal with when we are dealing with business and consumers, a substantial part of our work involves ensuring that businesses do not get

together and collude and, in particular, that big business cannot act in an unlawful anticompetitive manner in relation to small business. There is a whole range of provisions in the Trade Practices Act that deal with that: the misuse of market power provisions—which we have long debated with Senator Joyce and Senator Xenophon—there are the issues of unconscionable conduct that you have referred to and there are the codes of conduct in the horticulture code and the franchising code, all of which are administered by the ACCC. We have a whole area that deals with the issue of small business and its potential mistreatment by big business. But we also need to keep in mind that the act is very clear in that it wants to promote competition and not protect any sector of business, be it big business or small business, from the rigours of fair and lawful competition. What we are to deal with is unfair, unlawful or anticompetitive conduct, which is what our small business operation deals with.

Senator IAN MACDONALD—I know franchisees has been a topic of wide conversation over a long period of time. Without going into it—and I am conscious of time—are there amendments to the act that might enable the ACCC to more closely look at what seems to be very unconscionable conduct by, in this case, international corporates in relation to franchisees and the fact that they do not seem to have any obligation to act fairly in their contractual dealing?

Mr Samuel—The issue of franchising has not only been the subject of much public discussion but also the subject of many, many committees of review, both at federal and state level. There is currently before the government a report of the most recent review and they are currently examining that and submissions have been sought. There is also an expert panel that has been appointed and is conducting its inquiries—I think this is correct, Mr Ridgway—with a view to finishing in the very near future.

Mr Ridgway—That is correct.

Mr Samuel—Its inquiry is on certain aspects of the report of the Ripoll committee on franchising. So we are awaiting that. We have put our views to that committee and it is not appropriate for us to disclose what they are; that is up to the committee. We are waiting on the outcome of both the expert panel and the government's decision on that. I think that will give you some sense of direction as to what amendments to the law might or might not be appropriate, particularly the franchising code.

Senator IAN MACDONALD—Thanks, Mr Samuel. There are other things I would like to go into, but time is against me. Thank you, Madam Chair, and I thank the committee for allowing me in.

Senator XENOPHON—I will try and make a start, but I might have to put some on notice. Mr Samuel, I would like to talk about uniform pricing. Is the commission concerned about the proliferation of the use of lowest guaranteed prices by different supermarket chains in the sense that if different supermarket chains have different prices for the same product geographically then that puts into question the accuracy of saying that they have got the lowest price guarantee?

Mr Samuel—Let us first of all get the nomenclature right. This is not the issue of unit pricing, which of course is the recent amendments that were introduced by the government and came into force ultimately—

Senator XENOPHON—The per 100 grams.

Mr Samuel—Yes, the 100 grams. This is the issue of uniform pricing and of course there is no law in Australia that says that suppliers of a product, even if it is the same company, must offer a uniform price right throughout Australia. Indeed, that is a matter for individual suppliers to make their own determination. We have seen some statements made, particularly by the two major supermarket chains, Coles and Woolworths, in recent days as to their intentions and as to their current practice in respect of their current pricing practices.

Senator XENOPHON—Are you encouraged by them saying that across the state or across the country it will be the same price for particular goods?

Mr Samuel—My public responses have been to say that, while it is not a matter for the ACCC, anything that can assist consumers in making a comparison so as to, if you like, heighten the competitive tension between suppliers is a useful addition to the competitive dynamic. If, for example, it is easier for consumers to be able to identify that the outlet from a particular chain is likely to have the same prices right across the state and then to make a comparison with another chain, as the case maybe, that helps to enhance the competitive dynamic.

Senator XENOPHON—Mr Emerson was not the Minister for Competition Policy and Consumer Affairs at the time, but in August last year he made a speech in relation to the Blacktown amendment, which you know I have introduced with Senator Joyce, in which he paraphrased Adam Smith and said it was a conspiracy against the poor, or that he tended to agree with that. You do not see uniform pricing in a metropolitan area or even nationally as being a conspiracy against the poor, do you?

Mr Samuel—No, but let me go on. I will not make any comments on the Blacktown amendment because I am not sure what the status of that at the moment is and it is ultimately a matter of policy for the government as to whether that amendment is—

Senator XENOPHON—But uniform pricing is not a conspiracy against the poor, is it?

Mr Samuel—I do not want to get into that sort of debate because I do not think it is appropriate. What I can say is that the major supermarket chains have made statements in very recent days both as to what their proposed policy is and as to what they suggest their current policy is. Our observations or interest in that area would be to ensure that there are no misleading and deceptive comments that are made by the supermarket chains that might mislead and deceive consumers. We will obviously be keeping an eye on that to ensure that what is said publicly both through advertisements and through public statements by the CEOs of the organisations concerned is in fact matched in the day-by-day practice.

Senator XENOPHON—But you are generally encouraged by that trend towards to uniform pricing for certain—

Mr Samuel—It is a marketing decision that is made by the supermarket chains. If you were to judge by the statements that have been in recent days by the CEO of Coles supermarkets and by the CEO of Woolworths, you would have to observe that they judge that there is a marketing advantage in adopting uniform pricing. That is the marketing advantage,

if you like, which helps the competitive tension and that is the way that we see it should operate.

Senator XENOPHON—How much time have I got, Madam Chair?

CHAIR—None, but ask the last question.

Senator XENOPHON—I will put quite a few on notice. I will just follow this; it will take a minute or two. I will roll them into one because of time constraints, Mr Samuel. Is the commission aware of any evidence to suggest that grocery prices are higher in areas that could be described as lower socioeconomic areas? I refer to some pieces done by Helen Wellings, the *Today Tonight* journalist on Channel 7, in which they conducted surveys showing the same basket of goods costing more in lower socioeconomic areas. Would that be of concern to the commission if it seems that there is some price discrimination particularly in those areas that are doing it tougher?

Mr Samuel—We do not have details of that other than what you described on the television current affairs program by Helen Wellings. We do not have details of that primarily because these issues are not matters that fall within our responsibilities under the Trade Practices Act. If a supermarket or any retailer decides to charge a particular price in one location and another price in another location, whether it has some relationship to the demographic mix of the two locations or whatever, that ultimately is a matter for them. As I have indicated, the comments made by the CEOs of supermarket chains of recent days would tend to suggest that they see a marketing advantage in being able to claim that they have uniform pricing. If they see their marketing advantage and want to spruik it then that is good as long as they are not being misleading or deceptive.

Senator XENOPHON—It is fine what you just said. Would you say that that marketing advantage could also be an advantage to consumers?

Mr Samuel—If they perceive it as a marketing advantage, I guess they perceive it as an advantage that will attract consumers to their stores.

Senator XENOPHON—From the ACCC's perspective?

Mr Samuel—That is what competition is about. It is about trying to assess consumer needs, consumer preferences and to attract more consumers to your store by appropriate processes. What we have to ensure is that the methods adopted are not misleading, deceptive or anti-competitive. It is our focus to ensure that is the case. As I said before, I am pretty sure disparate pricing in certain demographic areas does not fall within the responsibility of the ACCC.

Senator BUSHBY—I understand you are looking into Telstra pricing controls at the moment. What does your investigation entail, what is the scope of it, how will it proceed and what potential impacts are there for consumers?

Mr Cosgrove—This is a review of the retail price controls that Telstra is subject to and that are due to expire in the middle of the year. There are terms of reference for that inquiry. We have asked for public submissions, which have not yet closed. We are due to report fairly promptly—by 12 March, on recollection. It is a review of the existing arrangements. We have

been asked to do that on two prior occasions. It is a similar inquiry to what we have conducted on previous occasions.

Senator RONALDSON—I have a number of questions which I will also be putting on notice.

CHAIR—We will expect as usual that you will answer those promptly.

Proceedings suspended from 10.18 am to 10.32 am

Productivity Commission

CHAIR—I welcome of the Productivity Commission. Do you have an opening statement you would like to make, Mr Banks?

Mr Banks—I do, thank you. I thought I would make some brief opening remarks to give an overview of the work that the commission has been engaged in since our last appearance here. We have been involved in a number of commissioned studies as well as supporting research, and the secretariat support that we provide for the COAG government services review, which has just had an increase in its role. In the time since we last appeared in October we have completed and the government has released reports on public and private hospitals, which came out in December; the *Performance benchmarking of Australian and New Zealand business regulation* report focused on food safety, which also came out December; and a major report, *Executive remuneration in Australia*, which was completed at the end of December and released by the government on 4 January. Two commissioned reports have been recently completed and provided to government but have not yet been publicly released: one into Australia's anti-dumping and countervailing system; and one on the contribution of the not-for-profit sector, which was completed at the end of January. We have also released—and you would have seen some press coverage—the *Report on government services*, where the commission acts as the secretariat for a steering committee, which is a COAG exercise. That is an annual report referred to as the *Blue book*. There was a senior officials' review for COAG of the *Report on government services* and its contribution, and its role has been reaffirmed. That report will be expanded in some respects in the coming time.

As part of the government services review exercise and working for the steering commission, as I mentioned, we had an expanded role in providing performance indicator information on the national agreements that replaced the old special purpose payments. That information goes to the COAG Reform Council, which informs its own reports to COAG. Two have been published in the area of education and training and some more have been provided to the COAG Reform Council and will be released in due course. The commission's annual report for 2008-09 also has been released since we last appeared. We also made a submission to the House of Representatives Standing Committee on Economics inquiry into raising the level of productivity growth in the Australian economy. That submission was dated 1 September 2009 and I and some colleagues attended hearings of that committee in October.

We have two other papers—a staff working paper and a visiting researcher paper. We have academics who come to the commission for a period of time and contribute to our work and we have a series of publications which is an outlet for some of that work. One of those papers was *Modelling the effects of the EU Common Agricultural Policy*, which was a collaborative

exercise with the Groupe d'Economie Mondiale in Paris which gave the report a bit of extra lift and credibility within France and Europe. The second report is a visiting research paper titled *Work choices of married women: drivers of change*. That is part of a stream of work we have been doing into issues associated with the ageing economy and the ageing society.

We also held the Richard Snape Lecture for 2009 which, as I mentioned last time, this year was delivered by Professor Yu Yongding from Beijing at the end of November. The title of his presentation was 'China's policy responses to the global financial crisis'. That address has been published and it got a little bit of attention in the media. We streamed that presentation live for the first time.

There are six projects currently under way which I will mention very briefly and there are another three which have been signalled by the government to commence shortly. They cover a range of policy areas. One that you will be very familiar with from previous appearances here is the gambling inquiry, which is a public inquiry. We have put out a draft report and the final report is scheduled to be completed by 26 February—this month—so we are busily finalising that report now. A second one is on market mechanisms for recovering water in the Murray-Darling Basin, a commissioned study for which a draft report has been released. The final report is scheduled for late March. We are conducting an inquiry into wheat export marketing arrangements. A draft report should be out towards the end of March and a final report on 1 July this year. We have a major study into bilateral and regional trade agreements which has to be completed by late November. A draft report will appear towards the middle of the year.

There are two streams of regulation related work I have talked about before which are ongoing activities and pick up different areas of the economy. One is business regulation benchmarking, which compares different jurisdictions around Australia in terms of compliance costs of their regulations and is part of a process of cooperative federalism in trying to reduce costs of regulation around the country. The two that we have been involved in in the most recent period are one on food safety regulation, which I mentioned, and the other one on occupational health and safety regulation, for which a final report is scheduled for late March 2010. We also have a second stream, an annual review of regulatory burdens on business, which is an ongoing five-year cycle. We have looked at the primary sector, the manufacturing sector and distributive trades, and social and economic infrastructure services. This year we will be looking at business and consumer services.

I mentioned that the government had announced that there would be some other inquiry is coming our way shortly. Agricultural R&D support is one that has been mentioned. It has been announced by the government, but we have not yet received a terms of reference. Then there are two quite important inquiries that the government signalled in relation to social policy issues: one on aged care, which was foreshadowed by the Prime Minister last year; and one disability care and support, where the government has announced an inquiry into a long-term care and support scheme for people with profound disability in Australia. That inquiry is expected to commence in April.

We have some other ongoing work. I mentioned the work we do for COAG through the government services review as the secretariat to the steering committee. That is an ongoing task. We have produced the *Blue book*. We are on track to produce another report on

Indigenous disadvantage, which comes out every two years. We are also now doing performance reporting for the COAG Reform Council as part of the national agreement framework. As the Productivity Commission, we are also a secretariat to a Treasury group looking at Indigenous expenditure reporting—and I have spoken about this before—to try to get a better picture of where the money is going and how much is being spent. We are doing work to prepare for an exercise looking at the costs and benefits of the COAG Reform Agenda. We are also developing some ideas for a further stream of work which the Prime Minister has mentioned in relation to human services.

Thank you for that opportunity. I will finish there. I should indicate that Michael Kirby was intending to be here today, but he is in ill health and has been replaced by Lisa Gropp on my right, who is a principal adviser, research, from the Melbourne office. Thank you.

CHAIR—Thank you.

Senator EGGLESTON—I noticed that in the *Australian* of 30 October last year you said the government is failing in meeting its own standards, in particular, has not universally applied its own promise to subject all major infrastructure spending to detailed and transparent cost-benefit analysis. You referred in that article specifically to the National Broadband Network and several projects in the \$22 billion nation building infrastructure plan. I wonder if you would like to comment on what you were driving at in those remarks.

Mr Banks—That would be a reference in the *Australian* to a paragraph from the commission's annual report, the first chapter, which was looking at a range of issues to do with raising productivity. It talked in general terms about the importance of cost-benefit analysis and made the observation based on information that was generally available documented in that report about the extent to which the cost-benefit analysis approach had been able to be put into effect.

Senator EGGLESTON—Are you saying that the government is not actually applying principles to these projects?

Mr Banks—I beg your pardon?

Senator EGGLESTON—Are you saying that the government is failing to apply cost-benefit analysis principles to evaluating these projects? Is that your view?

Mr Banks—We did not say that. What we did say was that on the evidence available there were some projects where public cost-benefit analysis had not been available. In some cases cost-benefit analysis may well have been conducted, but had not been publicly available.

Senator EGGLESTON—Are you able to say which ones that might apply to?

Mr Banks—I do not have the report before me, but I think it indicated that there were some areas. There has been, as you know, ongoing public discussion about the National Broadband Network and the extent to which a cost-benefit analysis in a public sense has been available.

Senator EGGLESTON—So what you are saying with specific reference to the NBN is that it may not have been fully subject to a cost-benefit analysis? Is that what you are implying?

Mr Banks—That implication is in the commission's annual report, yes.

Senator EGGLESTON—And the other nation building infrastructure projects—are there any of them that you perhaps want to draw our attention to?

Mr Banks—I would not go beyond what we have said. Clearly, in the context of the global financial crisis and the need to move with some speed in a number of areas, processes that might have been followed in more normal times may not have been followed. That was an observation that was made there.

Senator EGGLESTON—Do you think that the government will rectify that and review some of these projects, applying a cost-benefit analysis.

Senator Sherry—That is a matter for government. We will take it on notice.

Senator EGGLESTON—The Prime Minister has targeted a product growth of two per cent. What exactly does that refer to? Is it GDP per capita or labour productivity?

Mr Banks—That is a labour productivity number but it is an economy-wide number so it refers to not only labour in the market sector, so-called, but also in the public sector. It is a labour productivity measure at the broadest level.

Senator EGGLESTON—Okay. How will that be achieved? Do you know?

Mr Banks—Again, that would be a question for the policy departments to talk about. Looked at in an historical context, that number does not seem outlandish as an aspiration.

Senator Sherry—It would be an issue to explore with Treasury tomorrow.

Senator EGGLESTON—The commission talks about the importance of flexible labour markets. What does flexible mean in terms of labour markets?

Mr Banks—I could talk for a while on that. The main point, and it is something that both sides of politics have focused on over quite a period, is to provide greater flexibility within enterprises for organisational change that responds to the needs of different firms in different parts of the country. That kind of flexibility has been something at which policy has been directed for quite a long time.

Senator EGGLESTON—Coming back to that question of cost-benefit analysis, has the commission conducted research on the application or does it do this as a routine of CB analysis on public policy in general?

Mr Banks—Yes. We should not underestimate how difficult it is to do cost-benefit well, but it provides a framework for thinking about obviously the costs and the benefits of different policy proposals, even if you cannot quantify everything. In a number of the commission's reports, we have conducted cost-benefit analysis in those broad terms. We have not always ended up with a number, which is the solution in a sense, but have helped inform government about the trade-offs involved in pursuing different courses of action.

Senator EGGLESTON—Do you provide advice or training to departments on using cost-benefit analysis techniques?

Mr Banks—Currently we do not. When the Office of Regulation Review or Office of Best Practice Regulation was located within the Productivity Commission, it had a particular

emphasis on that as part of the government's best practice regulation processes. It conducted at least one or two seminars on that topic. Also the OBPR—to use the acronym—has provided advice to different government departments about issues to do with cost-benefit analysis. One of the issues in cost-benefit analysis is what discount rate to use—to get into an arcane aspect. The commission, through a visiting researcher, has been doing some work on that to assist all government departments in trying to reduce the stream of costs and benefits back to present values that can be compared.

Senator EGGLESTON—Where does the visiting researcher come from?

Mr Banks—We have a program that we have had for some time and generally visiting researchers come from different places. They are typically academics who are looking for an opportunity to do some policy-relevant research. We in turn are looking for opportunities to have our own knowledge freshened up with insights coming from academics. We have had a range of people. The person concerned, who was involved in that work and who has since left the commission, was on the faculty at the Australian National University and was also an economic consultant.

Senator EGGLESTON—Does that mean the Productivity Commission has collected recent examples of cost-benefit analysis conducted by departments for this researcher to look into?

Mr Banks—I might defer to some colleagues who may be closer to that particular project and whether that had particular case studies involved.

O'Brien—No, Senator, it did not review Australian practice. It was pitched at a more theoretical level, looking at the dispute over many years in economic theory about appropriate benchmarks for discount rates. It tracks issues such as international trends in the range of rates that are used and so on but it does not go to Australian case studies as such.

Senator EGGLESTON—Does that imply that there have not been a great number of cost-benefit analyses conducted over the last few years, if you are not looking at specific examples for your research to look into?

O'Brien—No, it was just pitched at trying to get our thinking clear about the benchmarks to use. It is pitched essentially at that level, with cross references to guidelines that have been published, as the chairman alluded to, in one instance by the Office of Best Practice Regulation and in the other instance by Infrastructure Australia.

Senator EGGLESTON—Do you know what the record of cost-benefit analyses over the last couple of years has been for this government—how frequently they have been conducted?

O'Brien—No, I do not. We do not, ourselves, track that.

Mr Banks—As I said, when the Office of Regulation Review and Office of Best Practice Regulation were with the commission we had some insights into that because of the regulation impact statement process, which is effectively founded on a cost-benefit framework. I think, going back many years, it would be true to say that there had not been a great deal of quantification generally, let alone the use of cost-benefit analysis. But that has been an issue of long standing. There have been reforms, including reforms to more systematically estimate the business compliance costs that arise from regulation through a

mechanism called the business compliance cost calculator, based on a Dutch methodology. There is more systematic information, if I could speak generally, now probably than there has been in years past.

Senator EGGLESTON—There has been quite a lot of additional regulation introduced. Are the Productivity Commission working through all these thousands of additional regulations? Are they working to reduce the level of red tape associated with business?

Mr Banks—As I indicated, we are at least supporting efforts within the Council of Australian Governments at the Commonwealth level to grapple with that, largely through transparency about what is there and some of the costs where we can get that information. So we have an exercise, as I have mentioned, which is supporting COAG, which is seeking to compare jurisdictions in particular areas and whether the indicators of compliance burden vary significantly or not across states and territories. They typically do, which is usually a sign that jurisdictions can learn from each other about ways of minimising those costs. We have also been conducting stocktakes of regulatory burdens in specific areas, and the business and consumer services sector is the current topic there. These reports have had submissions from business, they have had an opportunity for the relevant regulators and government departments to make an input, so they have been quite collaborative exercises. The benchmarking one in particular has involved an advisory panel of officials from all the jurisdictions. That has been necessary to get good quality information. We have made a contribution there.

Senator EGGLESTON—Has the Productivity Commission been involved with and consulted by the government over its productivity agenda to increase productivity by two per cent? Have you been providing specific advice to the government on that objective?

Mr Banks—We have provided advice over a significant period, both in relation to trends and developments in productivity but also as part of our remit under statute—the sort of reform directions that could underpin improved productivity performance over time. Indeed one of the key reports that we have done was into the National Reform Agenda, where we did quantitative work to show the potential gains that could be had from moving into so-called human capital areas in addition to the more traditional areas of competition policy and so on. So it is probably fair to say that the government would have available to it a lot of information from us, both in relation to the numbers and also in relation to the framework for thinking about policy in this area.

Senator EGGLESTON—I noticed in the *Financial Review* on 21 January an article by Louise Dodson, beginning:

The government's emissions trading scheme industry assistance risks jeopardising Prime Minister Kevin Rudd's plan to raise productivity and should be rigorously assessed, the Productivity Commission has warned.

The article later says that the commission cautions that:

With the further substantial industry assistance forthcoming as part of Australia's greenhouse policy response, it will also be crucial that this is rigorously assessed to ensure that it does not unduly detract from productivity growth.

Would you like to make any comment about that and what you have in mind?

Mr Banks—I would only make the comment that, as I said, the commission's role under its legislation is to advise the government on the impacts of industry assistance and ways of promoting productivity in the economy. It is in that context that we have raised issues to do with scope to evaluate different forms of assistance and to see whether they are still generating a net benefit for the Australian community. That is particularly important, I think, in more fiscally constrained times. The commission itself over the years has done a lot of those reviews. In more recent times we have done further reviews—for example, into the drought assistance regime, on which we completed a report last year. So it is an ongoing task to review the range of assistance.

Senator EGGLESTON—Just coming back to this, you seem to be implying that the subsidies and industry assistance which are proposed as part of the CPRS will reduce productivity.

Mr Banks—All we have said there is probably the obvious thing and the thing that people would expect us to say, and that is that any assistance of that kind—and I think at the time we said that there was still some movement in how that regime may go—needed to be very carefully calibrated to ensure that the benefits exceeded the costs. There will always be costs, but it is particularly important in a regime like that, which is quite broad, that they are minimised. That was the only point we were making.

Senator EGGLESTON—Thank you.

Senator CAMERON—I have a question about the academics who have visited from overseas—the visiting researchers. Could you provide a list of who has visited over the past few years?

Mr Banks—Certainly.

Senator CAMERON—And their qualifications and the like?

Mr Banks—Most of them would have been Australian. We have on our website an invitation that people can apply for this. We would have probably no more than one or two at any particular time. Most of them have been Australian, but we are happy to provide that.

Senator CAMERON—You have provided the committee, on a question on notice, the qualifications of your staff. Thank you for that; it was quite comprehensive. I would like to take that to the next step. Could you now provide the committee with the mix of employees between public and private schools—not the tertiary institutions but the schools?

Mr Banks—Perhaps I could go back to the last meeting. I think you were concerned that the commission may have staff who were all cut from the same cloth, if I could put it that way, in terms of their economic qualifications. The information that we provided to this committee indicates quite a diversity of qualifications among our staff. In fact, it surprised me. For example, the first page of what we sent you indicates that we have staff with qualifications and degrees in public administration, social work, forest science, law, linguistics, urban geography, social sciences, development, environmental economics, psychology—

Senator CAMERON—That is all on the public record. I have a few things I need to go through. That is not what I am asking you at the moment. I am happy for you to come back to

that some time later, but can I now move on to another issue, and that is your executive remuneration report.

Mr Banks—I am sorry, Senator. We probably should finish in relation to that. You were seeking further information beyond the tertiary qualifications of our staff.

Senator CAMERON—Yes.

Mr Banks—I guess I would make two points in relation to that. One is that we have provided this information, which took a while to get. I think it is good to have it, and we can see a public interest in having that. I guess there is a question of the utility of having more detailed information about the primary and secondary schooling of our staff, particularly in the context of a commission for which the responsibility lies at the level of statutory officers who are commissioners and not with the staff—as in, for example, executive remuneration, to which you are going to come in a moment.

Senator CAMERON—Are you telling me you will not provide it?

Mr Banks—All I am asking is what purpose that would serve.

Senator CAMERON—I am simply asking. What you have done is far more complex than what I am asking now—that is, to simply provide the break-up between public education and private education of your employees. I think that is a fair and reasonable question.

Senator Sherry—We will take it on notice.

Senator CAMERON—Thanks. Let us now turn to the executive remuneration report. You make the point in the report that there is no official, consistent, long-run data on executive pay and that that produced a real challenge for the Productivity Commission. You then had to rely on data produced by Egan Associates, by the Hay Group and by the *Financial Review*. Can you explain the methodologies used by those organisations for the data that they provided to the Productivity Commission? What was the methodology?

Mr Banks—I will ask my colleague in a moment to respond to that. You are right, Senator. There is no single, consistent series. However, the information that is provided from the sources that you have just indicated is quite comprehensive for the more recent period. If those data sets were continued and if we came back to this topic in 10 years time then we would be in a far better position than we were this time. Having said that, as you would have seen from the report, we triangulated the data in the sense of using different sources to see what consistency there was in the data to draw some conclusions about that. In relation to the methodology that they follow, I might ask Lisa Gropp if she has any comments to make.

Ms Gropp—As the chairman said, since the mid-2000s all of those series would use the same data source, which is based on the remuneration reports and which disclose remuneration for the top key management personnel. Prior to that, there was remuneration disclosure but not necessarily by name. You could probably do some good guessing about who the numbers referred to.

Senator CAMERON—Good guessing?

Ms Gropp—I mean in the sense that the highest paid would be the CEO et cetera, without the name attached. I think there is a fair degree of consistency. That is since about the late

1990s. For figures prior to that, we have to really rely on some of these consultants, and they had a client database and collected data. They are the sources of data. In terms of methodology, if it is base pay it is fairly straightforward: it is dollars or cash bonuses. It is difficult how you value performance based pay, whether it is looking forward et cetera. There are some different ways of doing that. I am not sure there is any particular right way, but we are aware of the ways they did it. As Mr Banks said, we looked at whether they were all reasonably consistent and that is why we presented the different data series.

Senator CAMERON—Could you take that question on notice? I am certainly not satisfied with that response. We have this report. The Productivity Commission itself has said it was a challenge. The outcomes of this report are based on non-independent graphs and non-independent information. I would like to know how you checked it and how you are satisfied it delivers an independent and proper analysis of executive salaries in this country.

Ms Gropp—Since the late 1990s the data for remuneration has been publicly available.

Senator CAMERON—From the *Financial Review*, from Egans?

Ms Gropp—The *Financial Review* database is just based on remuneration reports and it is publicly available.

Senator CAMERON—Given that this was such a problem for you, why didn't you then recommend that the ABS start collecting consistent long-term time series data on executive salaries? Why didn't you do that?

Mr Banks—If I could comment: as I said earlier, the data series that are now being collected are effectively doing that job. So we did not see a need for the public to go to the expense of collecting data that was being adequately provided.

Senator CAMERON—What business—

Mr Banks—The second thing is that, in comparing the data, we have had a number of series and they are quite consistent within bands. When you are collecting data, you have to think of the benefits and the costs of collecting it. We felt that there would not have been additional benefit, either, from the government—

Senator CAMERON—Mr Banks, why shouldn't government have its own independent analysis of executive salaries? Why should we depend on the *Financial Review* and remuneration consultants? Is that proper public interest?

Mr Banks—They are not depending on remuneration consultants in the sense that, as Lisa said, the information is made available every year in the remuneration report that is issued by the board of every company in Australia. The question then is: who should collate that information? Currently, it is being collated by more than one private source. I think the *Financial Review* is probably the most common. We did not see any need for that work to be duplicated by the government, by the public sector.

Senator CAMERON—That is an information asymmetry that I think government needs to deal with, and you failed to deal with it in your report. Can I now move on to the relationship or otherwise between executive pay and performance? Again, you have conceded in your report that that is problematic. The report seems to exclusively rely on minimal market wide measures, such as the ASX 200 accumulation index. Given that the companies do publish

performance data, including net profit, total shareholder return, return on equity, return on capital, earnings per share and a range of other measures, why has the PC made no attempt over the last five to 10 years to extract from annual reports company performance data of the top 20 or 50 companies? Why have you not done that as part of your remit?

Mr Banks—We looked at that information. Again, we had to look at the utility of how much work we did. We looked at other studies that had been done. Again, I might defer to my colleague to make further comment on that.

Ms Gropp—If you go from the macro level, which we did look at, to the company level, there have been studies done—some in Australia and some in the US. You need to have a very long time series to be able to track that, because there are lags et cetera. It is a data issue in terms of the length of the time series. We had a consistent time series by company, for example. There are lots of other confounding factors that you need to account for. The studies that have been done generally do not reveal a lot. I think that is why, and because of this data limitation, we did not go down that route. We did do some more econometrics than at the very broad aggregate level, which are reported.

Senator CAMERON—I will come to that. So you are saying that, really, you could not get information on these specific performance indicators?

Ms Gropp—One of the problems is that, at a company level too, when you have a change of personnel et cetera attributing company performance to one person is quite difficult.

Senator CAMERON—So the link between performance and pay is a mystery. Is that right?

Mr Banks—I would not say it is a mystery. In fact, you held up quite a fat report that actually documents a lot of what is going on, both conceptually and in terms of the empirics.

Senator CAMERON—But the report does not deal with it effectively.

Mr Banks—We may differ on the extent we have been able to do that. People who are expert in those issues have complimented us on the amount of empirical work that we did. It comes back, I think ultimately, to the question of what the data is for. As you know, we have seen that ultimately it is up to the boards of these companies in a market economy, where we have public companies fulfilling the role that they fulfil, to ensure that their remuneration arrangements are consistent with the interests of shareholders in the company in the long term. We have provided tools for them to do that.

Senator CAMERON—You are supposed to be—

Mr Banks—If you just allow me to finish, Senator. The reason for that is that no-one outside a company, and least of all someone in Canberra looking at Australia's 2,000 public companies, can understand the details of that company's circumstances to allow that centrally located person or bureaucrat to decide what is most appropriate for that company. Shareholders do not want that themselves.

Senator CAMERON—Nobody is asking for some bureaucrat. Don't misrepresent what I am saying. I am not asking for some bureaucrat to determine what a company does; I am saying that the Productivity Commission should exercise the same challenge and the same benchmark you apply to other groups in the economy to executives—and that is that the

information asymmetry that is there is dealt with. You do not deal with it in your report. You say it is a problem and your answers this morning do not lead me to believe you have any idea how we can deal with it.

Let us move on to the next point—I have a few I need to deal with. You have a regression analysis on page 444 of the report. Can you confirm that this table shows that while executive remuneration increases with market capitalisation there is in fact a negative relationship between executive remuneration and total shareholder returns? This is the case for base pay, long-term incentive payments and total remuneration.

Mr Banks—I cannot confirm on the spot. Again, I will ask my colleague who is closer to the numbers and who has a copy of the report in front of her if she wants to make an observation.

Ms Gropp—I think we did do a very short period of regression, as reported there on page 444. I think we did also point to the fact that they were not necessarily statistically significant results. I think that was part of the problem as well.

Senator CAMERON—So you are saying that there is no negative relationship in that analysis?

Ms Gropp—There are some negative relationships, but it is whether they are significant or not—whether the data was strongly supporting that conclusion.

Senator CAMERON—So your analysis of that is: ‘Well, you know, we shouldn’t do anything about it,’ because the report does not deal with it. The report does not make any real comment on that. You are largely silent.

Ms Gropp—I think we stated that it was a data issue—that we did not think that the data were of a long enough period to provide—

Senator CAMERON—It comes back to this information asymmetry.

Ms Gropp—We did not have a long enough time series. We have got good data being prepared now.

Senator CAMERON—You are really telling us that you don’t know.

Ms Gropp—No, just that the data could not support the conclusion.

Senator CAMERON—You have got this regression analysis and from my reading of it it establishes that when net profits fall executive pay does not fall. Is that correct?

Ms Gropp—In the aggregate we have shown that in the last couple of years that when profits fell pay did fall by a considerable amount.

Mr Banks—In fact, total remuneration fell on average by 30 per cent in the last two years, as indicated in our report. So it is back to the levels of 2004-5.

Senator CAMERON—But you do not go back any more than 2004-5—and you know that the excesses—

Mr Banks—The data does, but that observation was just made about what it had fallen back to.

Senator CAMERON—But you know the excesses in executive salaries went on right through the nineties. In the eighties the excesses were there. You do not have the information to do a proper long-term analysis. It is okay saying, ‘It came back 16 per cent.’ We had a global financial crisis; you would expect something to happen, wouldn’t you?

Mr Banks—What has happened is totally consistent with the analysis we conducted for the dramatic rise in executive remuneration, where there was an average annual increase of something like 13 per cent through the nineties, and that was high. We indicated that there were a number of issues to do with that. The rate of growth dropped off to about six per cent in the 2000s and then, as I said, fell by 16 per cent per annum in the last two years. So that is consistent I guess with remuneration in the broad at least responding to the wider performance indicator for companies.

Senator CAMERON—The regression analysis also indicates that basically executive pay is negatively related to company performance—that is the reality of what you have done so far. You do not really canvass that a lot in the report. You then go on and say that the single most significant factor explaining the quantum of remuneration is this issue of company size, where, if the company increases by 10 per cent, there is a four per cent increase in CEO pay. And that accounts for about 25 per cent to 50 per cent of CEO increases. If that is the case—that is your statement in the report—do other employees share in this largesse that goes to company executives, and if not, why not?

Mr Banks—Again, there is information in the report that shows that what happens in a large company may be different to what happens in a small company. For example, the average CEO of a bottom 500 company in the ASX 300 earns about four times average weekly earnings whereas, as you know, the multiples are much higher further up. We also observe that in the mining sector there is a far greater compression between executive salaries and workers’ salaries than you would find in the finance sector. We have some discussion about the forces at work in those different areas. In each case you can see differences that respond to the circumstances of those companies.

Senator CAMERON—That may be your assessment; I cannot see that that is quite clearly delineated effectively in here. Can I just move on from that and talk about the efficiency of the executive labour market. You talk in the report about having a reasonably efficient executive labour market. This is not a concept I have heard the Productivity Commission talk about before. Is this a new concept in labour market economics? And if the standard for executives is reasonably efficient, is it okay for the car industry to be reasonably efficient, skilled tradesmen to be reasonably efficient, other workers to be reasonably efficient? Why do you talk about ‘reasonable efficiency’ for executives, yet other workers and other groups have to meet international best practice and be competitive and highly productive? Why is there a different test in your document for executives?

Mr Banks—I would have to look at the context in which we use those words, but consistent with that is the fact that we have found that there are a number of sources of inefficiency in the executive remuneration market to do with the governance arrangements in particular and some of the process arrangements within companies and how the companies reported to shareholders, the degree of independence the remuneration committees had and issues around the conflict of interest to do with remuneration consultants. These were all

things that we felt needed to be addressed and we have made recommendations in those areas. But that was against the background of our broader finding, which was that we did not see system-wide failure across the 2,000 public companies in Australia. If we have used the word 'reasonably', it is in the context of the counterfactual or considering all the circumstances. My colleague may wish to add a further comment.

Ms Gropp—I think it was in the context that not all were operating as efficiently as they might be. That was why the recommendations—particularly the two-strikes rule—were perhaps targeted at those which—

Senator CAMERON—That is a whole different issue; I am talking about the 'reasonable efficiency'.

Ms Gropp—That is the context of reasonable efficiency. There was no system-wide failure, but there were some anomalies which needed to be addressed, and that is what the recommendations were targeted at.

Senator CAMERON—Could I ask you to have a look at the transcript of what you have just said and see whether you need to deal with that in a further answer, on notice? I just do not understand where you are coming from.

I will now move on to listing rule 10.14 and other related matters. As you are aware, rule 10.14 allows boards to buy shares on-market to reward executives. If they use the company shares to reward executives, then they have to take it to the shareholders. This is a problem that was continually raised in submissions to the Productivity Commission, and yet all you say is that the downside might be the discouragement of equity based incentive arrangements for executives in favour of cash salary. The report does not address this problem. It does not address the submissions that were put to you that all of these gifts and transfers of wealth from shareholders to executives should be the subject of shareholder decision. Why didn't you take that further?

Mr Banks—I will comment on that and, again, my colleague is more across the detail of what has happened in the past. Shareholders want executives to have skin in the game. They want executives to have shareholdings in the company that they are operating in for obvious reasons: that is a mechanism for aligning the incentives of the executive with the interests of the shareholder. Equity, as part of a remuneration package, is seen by shareholders as a very important instrument. Around that there will be discussion about how that should be done, how much, and the extent to which it should have long-term or short-term dimensions to it. We go into that in our report.

On the question of share issues, there is a distinction between shares that are purchased on market and new share issues. New share issues dilute the existing shareholdings of shareholders and therefore it is quite appropriate that shareholders be given the opportunity to effectively veto or have a binding vote on such issues. When shares are purchased on market as part of this balanced package of remuneration that dilution effect does not occur; indeed, there has always been effectively an exemption through the ASX listing rules for share purchases that have been made on-market. It is true that some participants, I think possibly two, have raised this issue repeatedly and we go through it in some detail in our report. But we believe that their concerns were based on a misreading of the history of this matter.

Senator CAMERON—I understand and appreciate that. The opposition have given me a good go on this issue.

Senator JOYCE—I have not said anything while you have been asking your questions.

Senator CAMERON—I cannot give you that commitment, Senator Joyce. On the issue of stress testing you indicated that there was some stress testing done of your recommendations but that there was no methodology of how this stress testing was done. I am wondering whether the stress testing was the witnesses stress testing the Productivity Commission or whether it was the other way around. Given the outcome, I think the stress test was the other way. If you might take that on notice to give me some idea of this methodology you used to stress test. I just do not understand how you do that by simply sitting down and talking to the participants in the industry.

I would like you to take on notice the issue of the directors club and the problems that are associated with individual directors having multiple directorships, the small pool that is there and what that does to drive up executive salaries; also, the role of remuneration consultants in driving comparative wage justice and pattern bargaining when it is outlawed for everyone else in the community. Also, can you tell me why you do not index your reports to make it a bit easier for senators to actually have a look at what is happening in those reports. That would increase the productivity of senators and that is the something the Productivity Commission can do to increase productivity. I have got other questions but—

Senator COLBECK—We have been told in previous estimates that their job is not to help us senators, and that we should do it ourselves. In fact, I am sure I read in the *Hansard* of last estimates Senator Carr telling Senator Abetz exactly that.

CHAIR—I think we had better ask Senator Carr that.

Senator COLBECK—I am just trying to helpful.

Senator COONAN—I wanted to ask some questions about participation and productivity. In particular, I want to start with your speech that was delivered to the Melbourne Institute on 5 November last year. It was titled ‘Back to the future: restoring Australia’s productivity growth’, which no doubt you will recall. In that speech you spoke about there being some ‘sweet spots’ for policy effort over the next few years and you go into some length into three areas which are detailed in the speech.

But I want to ask you specifically about what you have also said is the new focus on reforms to enhance human capital development. Just at the end of your speech, you say that the items that you have identified as ‘sweet spots’:

... represent only a sub-set of the wider suite of important reform areas under COAG...

You then say:

A crucial element for the long term is the ‘human capital’ agenda.

In particular you pick out:

... potential reforms to improve the population’s health and skill [as] pathways to a more productive and participative workforce ...

You have said also:

... the Commission has shown, this ... holds the promise of national welfare gains at least as great as those from the previous, competition-related waves of reform, realising much of it will take time and require higher levels of ... investment. The scope for such expenditure has been reduced by the stimulus spending and the new challenge of restoring budgetary balance.

So that is all really an introduction to the topic that I want to ask you about, which is the participation of women in the workforce and, in particular, a very interesting research paper by JB Were released on 30 November 2009—you have no doubt got a copy—that is research on gender participation and productivity called *Australia's hidden resource: the economic case for increased in female participation*. You are familiar with that?

Mr Banks—Yes.

Senator COONAN—It is interesting. I just want to go through some of the points before coming to some other issues arising out of the remuneration report and diversity. It is true, isn't it, that women do represent an alternative source of highly educated labour that is currently available?

Mr Banks—Senator, thank you for that question. You have covered a bit of territory there. I guess the context for the paper to which you have referred is the circumstances for the commission thinking about what advice we would offer the government about potential productivity gains that are more immediate than the human capital agenda, which is a very important agenda. We have done that work to which you refer indicating that the potential gains are quite large. But the pay-offs from that agenda—this is one of the reasons why it is hard to get reform in education and health—are well down the track, in some cases a generation down the track where you are talking about early childhood. So the issue is what is a blend of reforms that would enable some earlier gains?

The second point is that the human capital agenda, unlike the regulatory agenda and the industry assistance agenda, is one that consumes quite a lot of resources. So investing in human capital is potentially very substantial, and the work we did that indicated the gains at hand, they were gross gains and we did not know what the programs would be and what they would cost. Some information has come in since then, and clearly we are talking about billions of dollars potentially in outlays to prosecute that. So that is all very important to productivity.

The participation side is equally very important. You make the reference to women. In a number of reports we have looked at the issues of women in the workforce and areas in particular in the life span where we seem to be not performing as well—if I could put it that way—as other countries. Women of child-bearing age is a particular area. I have heard also that in the area of men and women who are quite young is potentially an area where we can do better. But that child-bearing age period is particularly important. And you can understand why because obviously women are a bit conflicted in terms of what roles they want to play, so ensuring that you have policies that enable them to make those choices, policies in relation to paid parental leave and other things, is very important. But ultimately you do not want to drag Australia's women out of their homes into the workforce if that is not a productive thing when you take wellbeing as a whole.

Senator COONAN—Thank you for that answer. The JB Were paper argues that an alternative source of highly educated labour is already at Australia's disposal, and with the right set of policy options this pool of labour can be unlocked. They then go on to claim in this report, or the author does, that closing the female-male employment gap could boost Australian GDP by 11 per cent. Is that something that resonates with you?

Mr Banks—I was nodding before, not really to indicate that I have read that report but rather that I knew it existed. I am not personally familiar with the methodology they have used. I do not know if any of my colleagues have seen that.

Senator COONAN—I could not find anything quite like this that the commission had done, which is one of the reasons why I am raising it. The claim is:

Closing the gap between male and female employment rates would have important implications for the ... economy. We estimate that closing this gap would boost the level of Australian GDP by 11%. Indeed, much progress in closing this gap has already occurred over the past 30 years—

well we know about that—

with the rise in the female employment rate since 1974 boosting economic activity by 22%. In this respect, Australia is only 2/3rds of the way to unlocking the hidden value of the female labour pool.

Mr Banks—I would not say that that is implausible, that kind of number. But, again, it always depends on what policies are needed to achieve that.

Senator COONAN—I am interested in what you think about it. Just so you might make you answer by taking this into account, they go on to estimate:

... GDP could be boosted by 20% if the gender productivity gap was also closed—

that being the suggestion that policies aimed at merely bringing women into the workforce as participants in traditional occupations and low-paid low-productivity type occupations is not the best use of highly educated women, and that low-productivity sectors of the economy—particularly health care and training and a bias to clerical roles and a bias to working short hours—is not the most effective way of bridging the gender productivity gap. Is that something that resonates with the commission?

Mr Banks—Yes, that clearly makes sense, but again you have to think also what is in the best interests of the women concerned. In some cases they may prefer the part-time or even casual job, and they may prefer a job that is less taxing physically or mentally because of the huge burden of work they have within the home itself. As I said, provided you have policies that enable those choices to be fairly made by women without them being pushed in one direction or another then it does make a lot of sense. Again, my colleagues might have a more particular comment to make on that.

Mr O'Brien—Senator, I would just add: you can see how these estimates could be produced arithmetically by zeroing in on deviations of Australian participation or productivity levels from some OECD benchmarks and then just assuming they were close. It is certainly useful to approach that sort of benchmarking to see where you may have unintended disincentives or prejudices built into your system that you ought to remove, but I would be wary of going beyond that to assuming the endpoint would be convergence on some average because, as the chairman has emphasised, wellbeing is really a matter of giving people a

minimally distorted environment in which they can exercise their preferences, and there are cultural differences and all sorts of historical differences among countries that might explain some difference. Our own mindset would be to look at it this way: are there accidental disincentives or erroneous policies here that, if removed, would open up areas of choice. We would argue that if you could do that then you should go in that direction. What the net outcome of doing that is hard to foresee. There would presumably be some closure, but whether there would be complete closure or not is really for individuals to work out in their own preference set.

Mr Banks—The only other point I would make, and it comes back to Senator Cameron's focus earlier, and it is in our report on executive remuneration—

Senator COONAN—I am just about to come to that.

Mr Banks—okay—that clearly there is an issue there, and we have seen the representation of women not only being low but actually diminishing over time. It is hard to explain that, other than through cultural or other issues that we think potentially are getting in the way of good book performance.

Senator COONAN—It is a bit difficult to think that work-life balance is entirely the answer as to why the figures for women in top executive management and representation on boards is low.

Senator PRATT—There is a report that was launched yesterday that is quite helpful to this discussion, Senator Coonan. So if you do not mind, the National Women's Alliance put out a report yesterday calling to remove women's workforce barriers. They worked specifically with women who had expressed a desire to increase their workforce participation. So that really overcomes this sense that women are choosing not to participate and it is a lifestyle issue. They raised a number of issues that really raised the specific barriers that women find problematic in relation to their participation, and called for that to be addressed. I suppose I would like to put on notice to the Productivity Commission that they might look at responding to the issues raised in that report.

Mr Banks—Thank you.

Senator COONAN—If I could just continue, thank you, Senator. It seems to me that quite apart from the issues that you have quite rightly raised as to making sure that there are not unintended consequences of doing more to narrow the gender gap on the productivity basis, part of the answer of increasing productivity is staring us all in the face it would seem, if the figures of the potential boost to GDP are anything like right. Is that correct?

Mr Banks—Certainly. Productivity, participation and population—the famous 'three Ps'—are all at play here, and certainly both productivity and participation would be enhanced potentially by tapping the best out of our workforce, and in particular ensuring that women are able to contribute to their potential. So there is no doubt about that in principle. I guess the only slight quibble we have been making, not having seen the studies, is that the devil is in the detail in these kinds of estimates. But we will look at both of the studies to which you have referred.

Senator COONAN—If you would not mind. I have the reference to it. I think it is broadly available, if not I will make a copy available to you. I think it was publicly released. It may have been something that required a fee, but it was given to me. I want to take an interest in it, so I would be very pleased if you would have a look. I also want to ask a couple of questions, just to finish off my slot, about chapter 6 of the remuneration report dealing specifically assessing the role of the board. In particular, the issues that we just talked about a little bit earlier, the figures are pretty stark. I will note them for the record: only two per cent of Australia's top 200 ASX companies are chaired by women; only two per cent of Australia's top 200 ASX companies have female CEOs in place, or four female CEOs in total; women make up 8.3 per cent of directorships in Australia's top 200; women account for only 5.9 per cent of line executive management positions within Australia's top 200; and women account for only 10.7 per cent of the executive management positions within Australia's top 200. So it is a much broader problem than just looking at non-executive directors or women on boards. It appears to go much more critically to merit-based selection, as we all agree there should be, as how you get a pool of available women into the pipeline so that they can be available for these kinds of appointments. Is that something that you looked at in this context?

Mr Banks—Yes, we did look at the options there. As I said earlier, the fact that the ASX Corporate Governance Council has put forward a proposal that companies be required to indicate what their objectives are in terms of gender participation on their boards, and document progress over time—and there is nothing like transparency to keep a bit of pressure on, and you can imagine how popular it will be to report that in the press. I think those sorts of things will increase the incentives on boards to do it. You make a very good point that in the past boards have argued, 'Well, we'd love to appoint a woman, but there's no qualified woman available.' We have talked to people in the business of recruitment about this. There are obviously multiple criteria, but one of them is latent talent or ability, and that tends to get weighted fairly lowly relative to experience, including experience being a director. There is a catch 22 there, so it is possible that we need some kind of breakthrough.

However, again, as I indicated earlier, you would want that breakthrough to be controlled by the boards of the companies rather than it being necessarily imposed on them, at least initially, to see how that goes. I think there is something to be said, even though you have to address it down the pipeline, for also addressing it within the board itself, because there is a lot of tops-down motivation and cultural things that can condition what happens within a company. So I think if executives in a company see that 30 per cent of the board are women, that has a very interesting conditioning effect on how they perceive women in that particular company.

Senator COONAN—Sort of like a cultural trickle down effect?

Mr Banks—I think there is an important cultural dimension to it. So it is an important issue. We have strongly supported the direction of the ASX in that area. We have said that that should be revisited a few years down the track to see whether that has made any difference and potentially those provisions upgraded from 'if not, why not?' to a listing rule.

Senator COONAN—To some compulsion, in the end?

Mr Banks—Yes.

Senator COONAN—So your view, if I could just summarise, is that the circuit breaker here is to try to improve the way in which companies will plan to promote women, not only at board level but also throughout the organisation and report it?

Mr Banks—Yes, and that they will be held accountable for that.

Senator COONAN—Thank you.

Senator JOYCE—I have a few brief questions. Something that is pertinent at the moment: obviously you would be aware of the tragic death of the girl at Cafe Vamp after the bullying incident. You have actually done a Productivity Commission assessment of bullying in the workplace—is that correct?

Mr Banks—That work, I think, has been done as part of the benchmarking work that I referred to earlier, where we have got a stream currently in play and a draft report was released on OH&S where information was indicated about bullying in the workplace. I do not know whether others want to comment on that, but that was the context. So we have not done a study focused on that but it was part of a wider study.

Senator JOYCE—Is there any reference in the wider study to, I think it was a \$10 billion cost or \$14.6 billion, to the economy?

Mr Banks—I might be corrected on this, but I suspect that if we had a number like that we would have been reporting someone else's number as indicative of the fact that this is potentially significant rather than being in a position necessarily to verify that ourselves.

Senator CAMERON—You have quoted the *Financial Review's* number on executive salaries. It did not worry you then.

CHAIR—Senator Joyce, please go ahead with your question.

Mr O'Brien—I will just mention that, as the chairman says, this is an issue in the broader canvas of the benchmarking of occupational health and safety that the commission is engaged in on behalf of the COAG governments as a whole. As a rather small part of that overall exercise, it notes that, in a world of improving occupational health and safety outcomes and considerable progress with a model national code, at present only Queensland and Western Australia provide a code of practice on how to detect and manage bullying, even though this and other psychosocial hazards place very high costs on business. So it is sort of waving a flag that this is not an issue widely addressed in the tapestry of Australian occupational health and safety arrangements. I do not know offhand if it mentions or cites the number you have mentioned there, but, as the chairman said, the benchmarking process involves seeking the input of all the constituencies and of any business interest groups or whatever who want to make submissions. So we would just be picking up the evidence that was reported to us in that context.

Senator JOYCE—On the back of that tragic death—and I think a lot of Australians are pretty shocked by it and see it as a representation of something that is insidious and nasty and should be dealt with—have there been any recommendations or have you had any form of referral to you to look into bullying in the workplace?

Mr Banks—No, we have had no specific reference in that area and, as I say, the reporting has been part of a wider remit that we have had in the area of occupational health and safety.

That is not to say that it is not a significant issue, and, if those numbers are correct, that is clearly the case.

Senator JOYCE—I want to quickly touch on this. I have been reading some reports from the productivity commission in Singapore and going through their issues with transferability of labour across national boundaries. Currently with the changes do you have any information in regard to the effect on productivity because of the accessibility of Australia to skilled migration? Has it increased our productivity? Has it been of benefit to our productivity? Do you have any information for us on that?

Mr Banks—I will give an initial answer. I do not know whether Lisa might have some more detail to provide. We have done some work in the past, in a commission study that we did on immigration and looking at the economic consequences of that, where we would have marshalled information of that kind. Clearly, there are two dimensions with immigration. One is the participation side and the age profile of the workforce, which you can potentially address. The other one is filling skill gaps and therefore the productivity of the workforce. They are both very interesting issues. My understanding is the empirical work gives some different answers in that area. We did our own analysis in relation to that earlier report which was at a broad level. What we said in terms of skill and productivity, I am not sure, but we could get back to you.

Ms Gropp—We did a report in 2006 in which we modelled the effects of migration and of skilled migrants in particular. It found that there were positive effects from skilled migrants, from higher participation, the slightly higher hours of work per worker and the upskilling of the workforce. But there were some trade-offs with that and some distribution consequences. We could provide a more detailed answer.

Senator JOYCE—On the premise of the 2006 report, which showed a positive impact on productivity by reason of skilled migration, then any policies that go forward that start removing skilled migration and changing the mix to more family reunion would have to actually work against the nation's productivity, wouldn't they?

Mr Banks—My memory of that data, and we probably should get back to you so that we are sure of our facts here, is that the difference that it was making, when you look at it on an economy-wide level, was not great. There was not a large difference. But it is reliant on modelling et cetera and it does not take into account some of the other non-economic dimensions. As I said, there is a participation dimension and a productivity dimension to migration, and you would want to look at the impacts of any change in composition on both participation and productivity. For example, you could start bringing into the country relatively very young people who were not skilled, and over time that would be quite different from bringing in older people who are skilled but are going to leave the workforce. So the composition would need to be looked at more carefully. If we have more that we could provide to you from that report we would be happy to do that.

Senator JOYCE—With productivity in the education system, we have seen the site that the government has put up. Is benchmarking schools in essence something that would increase productivity or decrease productivity?

Mr Banks—The commission, as a secretariat to the government services review, has provided benchmarking information for years across jurisdictions but it has been at a very broadbrush level. Governments have accepted that it is quite a good thing to be able to compare the performance of different jurisdictions in relation to literacy and numeracy and a range of other indicators. The debate has been on how much more detailed the information should be. We would support the logic of having more detailed information to enable those sorts of comparisons to be made and, indeed, to enable some jurisdictions to learn from others. As you know, each jurisdiction currently has different approaches to the governance of schools. Victoria's is quite different from New South Wales's and so on. So I think that more rich information will be helpful. Ultimately, as for the productivity benefits, there may be some directly through transparency as an incentive for schools to do better et cetera but the other productivity benefits would be through governments, at the state and territory level, learning from the experience of other states and territories in approaches.

Senator JOYCE—To increase the productivity, though, you would have to also allow the transferability of students to go from one institution to another, wouldn't you?

Mr Banks—You can talk of productivity at different levels here. I suppose the crucial thing that we should be focused on is the human capital side: how well taught are these kids and how well does their schooling prepare them for a life of productive and fulfilling employment? That is really the crunch issue. You have then got the question of the productivity of the education sector itself, which is not unrelated to that but also has a cost side. You can achieve a certain improvement in the quality of the kids in terms of the education they get but that has a cost. That is why I think we should see how education systems compare and schools compare in terms of not only the impact on kids—numeracy and literacy and so on—but also the costs side of it—how many resources were put in. Both are quite important, so I think having information on both is quite valuable.

Senator JOYCE—With the attention on numeracy and literacy and on productivity in education and how that pertains to an increase in the productivity for the nation, would you be able to tell us what sort of increase in the capacity of numeracy and literacy would be able to be attained by a child from a new school hall?

Mr Banks—I assume that is a rhetorical question and obviously I do not have an answer to that. But we do have information on the links between literacy and numeracy and productivity, and I could provide with some notice information of that kind.

Senator JOYCE—So it has got nothing to do with school halls, has it? Nothing revolutionary in helping an education system with a new school hall?

CHAIR—Mr Banks has already responded to that.

Senator XENOPHON—Mr Banks, if I can I will rip through a few topics because of time constraints. I think the Productivity Commission's report on gambling is due to be given to the government on 26 February. Has it gone to the government yet?

Mr Banks—No. We will use every day available to us, for reasons that you can imagine, just to pull that together. We got a very substantial response to the draft report, including very many hefty submissions. We are working through that right now.

Senator XENOPHON—Can I go to the issue of toilet paper. A big issue in my home state is the antidumping duties being removed, with respect to toilet paper imports from China and Indonesia, and the consequent fear that some 1,500 jobs could be lost in the south-east of South Australia. One of the key recommendations of your draft report in terms of Australia's antidumping and countervailing system is to introduce a bounded public interest test. I am very happy for this to be taken on notice, given the time constraints. Would the public interest include cheaper products? Do you take into account the employment effects of the cheaper products and also the concern that has been expressed to me by some involved in competition law that if we end up losing local manufacturing—for instance in relation to toilet paper, because of the imports that have been dumped well below price in their own market—we could end up having prices being forced up when there is no longer any Australian manufacturing? The other issue is this. Does the commission assess the role of the trade measures review office in terms of their processes? One of the concerns has been that they are constrained in terms of what information they can consider in a review of their initial determination. I am referring in particular to reports Nos 138 and 158. So, effectively, do you assess the effectiveness of the investigations and should you, with investigations, consider further evidence? I am happy for that to be taken on notice given the constraints.

Mr Banks—The complication that immediately occurs to me is that we have got our final report that is with government at the moment and has not been publicly released. If that report is released in the short term it will be far easier for us to refer to it. It may not be all that useful for us to refer back to the draft report. You would recall, in relation to the bounded public interest test, that it was not going to be that you add up all the costs and benefits across the country but rather see if there some anomalies, clearly anomalous situations, that would be occurring if you put antidumping duties on such that it would clearly not be in Australia's interest. We had a number of criteria there. I could get back to you on those. They are in the draft report. But even in that area, as with other inquiries, I am sure we finetuned those and there are probably some changes there and so on.

Senator XENOPHON—Perhaps there could be a response insofar as it is appropriate in terms of some of the issues raised and also in terms of the processes and there could be, if it is possible to get it, a further response from the commission once the final report has been released by the government. Finally, in relation to the issue of your report on public and private hospitals, it seemed to me that there was a real concern as to a lack of appropriate data collection. Do you see some way forward in relation to that in terms of comparing the efficacy of the two systems? Did that constrain the commission in terms of the nature of its report to some extent because there is that constraint with respect to data collection?

Mr Banks—Data has been a theme today in these discussions. Clearly we were constrained, as you well know. In producing the draft report we were further constrained by delays in receiving such data as was available.

Senator XENOPHON—Because of the states, principally?

Mr Banks—Yes. The data comes from the states, and some data came a bit quicker than others. For our final report that has all caught up, but we have a further supplementary report coming out, with some of the more complicated multivariate analysis that went on.

Senator XENOPHON—When is that due to come out?

Mr Banks—I think the end of March. The report is self-contained, but this would provide some further elaboration—

Senator XENOPHON—If states are not cooperating with an inquiry, what powers does the commission have to request that?

Mr Banks—Mr Wonder might want to comment on that.

Mr Wonder—The commission has in its act general powers which have not been used in the past, as far as I am aware, to go to any participant in our references and address information that has not been provided and that we think might be relevant to the course of the reference that we have. We have not had to do that, and you could imagine that in the context of undertaking something, say, in the hospitals area, or many other areas that we address where we rely on the cooperation of the states, we basically take the approach of consultation, engagement and the like, and information has generally been made available. In this context, in the hospital case, I think it more particularly comes down to the issue of being (1) the service provider and (2) the gatekeeper, if you like, of the data. Those two roles are not in any sense separated out. They are all in one.

Senator XENOPHON—Is the problem more with the gatekeeper than with the service provider?

Mr Wonder—I think our hospital report addresses that issue. The issue that has been highlighted is that very one: basically, having the two responsibilities rolled into one place.

Senator Sherry—I have responsibility for the ABS—the Australian Bureau of Statistics. I have not talked to the minister, Nicola Roxon, about her response to the report, but on the data collection it seems to me highly desirable to have, in as many places as you reasonably can, data collected by the ABS. It is national, comprehensive single-set data, and it is enforceable.

Senator COLBECK—The Minister for Agriculture, Fisheries and Forestry announced on 2 December last year a review of governance and efficiency of Australia's R&D corporations. Where are we at with respect to the terms of reference, any consultants engaged—can you give us a sense of timelines for the review?

Mr Banks—I might again ask Mr Wonder to comment on that.

Mr Wonder—Yes, Minister Burke made that announcement, as you said, last year. We have not yet received the terms of reference for that study. We understand that we will be undertaking that work in 2010, so we are expecting to commence that work in the next little while. But we have not yet received the terms of reference from the government.

Senator COLBECK—Okay. Just—

CHAIR—Sorry, Senator Colbeck, but we have only 15 minutes for each of the next two departments, and I have a long list already—

Senator COLBECK—I will just put this on notice. You have not got terms of reference so it is hard to know whether there is going to be any measure of contributions of R&D to productivity. Are there any broader measures of R&D and its contribution to productivity, which is a fairly important issue from my perspective in the context of some other issues that are going on as well? I know that the R&D corporations try to measure it but I am looking more broadly across the economy to see if there are any measures of R&D and their contributions to productivity in the economy?

Mr Banks—We certainly will get back to you. One way we can inform you on that will be an issues paper that will be released within a couple of weeks of us receiving the inquiry. What I could do is send you that issues paper. If you felt there were issues in there that had not been properly addressed or if you have any comment, we could get back to you subsequent to that.

Senator COLBECK—I understand it is specific to that inquiry but I am looking more broadly across the economy as well.

CHAIR—Thank you, Senator Colbeck, we really have to conclude now. You can have a discussion with Mr Banks after this if you like. Thank you to the members of the Productivity Commission for appearing today.

[12.00 pm]

INNOVATION, INDUSTRY, SCIENCE AND RESEARCH PORTFOLIO

In Attendance

Senator Carr, Minister for Innovation, Industry, Science and Research

Australian Nuclear Science and Technology Organisation

Dr Adrian Paterson, Chief Executive Officer

Mr Douglas Cubbin, Executive General Manager, Business and Enterprise

Mr Steven McIntosh, Senior Policy Advisor, Government Liaison

Commonwealth Scientific and Industrial Research Organisation

Dr Megan Clark, Chief Executive

Dr Alastair Robertson, Deputy Chief Executive, Science Strategy and Investment

Mr Mike Whelan, Deputy Chief Executive, Operations

Dr Andrew Johnson

Australian Research Council

Professor Margaret Sheil, Chief Executive Officer

Ms Julija Devela, Chief Finance Officer

Professor Andrew Wells, Executive Director

Ms Leanne Harvey, General Manager

Office of the Chief Scientist

Professor Penny Sackett, Chief Scientist

Executive

Mr Mark Paterson, Secretary

Ms Patricia Kelly, Deputy Secretary

Ms Sue Weston, Deputy Secretary

AusIndustry Division

Mr Bill Peel, Head of AusIndustry Division

Ms Merryn Kennedy, General Manager, Innovation Branch, AusIndustry Division

Ms Wendy Launder, General Manager, Business Development and Commercialisation Branch, AusIndustry Division

Dr Russell Edwards, General Manager, Research Development and Venture Capital Branch, AusIndustry Division

Ms Lisa Peterson, Acting State Manager NSW, AusIndustry Division

Mr Paul Sexton, General Manager, Customer Services Branch, AusIndustry Division

Corporate Division

Mrs Melissa McClusky, Head of Corporate Division, Chief Finance Officer

Ms Cherie Ellison, General Manager, Business Collaboration Branch, Corporate Division

Mr Brad Medland, General Manager, Corporate Finance Branch, Corporate Division

Mr Richard Byron, General Manager, Human Resources and Facilities Branch, Corporate Division

Ms Chris Butler, General Manager, Corporate Strategy Branch, Corporate Division

eBusiness Division

Mr Craig Penniford, Head of e-Business Division, Chief Information Officer
Mr Mike Sibly, General Manager, Online e-Business Services Branch, eBusiness Division
Mr Steve Stirling, General Manager, ICT Operations Branch, eBusiness Division
Ms Trish Porter, General Manager, ICT Operations
Mr Anthony Steve, Acting General Manager, Online eBusiness Services, eBusiness Division

Enterprise-Connect Division

Mrs Judith Zielke, Head of Enterprise Connect Division
Mr John Dean, General Manager, Enterprise Connect Branch, Enterprise Connect Division

Industry and Small Business Policy Division

Mr Barry Jones, Head of Industry and Small Business Policy Division
Ms Ann Bray, General Manager, Business Registration and Licensing Branch, Industry and Small Business Policy Division
Mr Tony Greenwell, General Manager, Business Conditions Branch, Industry and Small Business Policy Division
Mr Michael Schwager, General Manager, Small Business and Deregulation Branch, Industry and Small Business Policy Division
Mr Richard Snabel, General Manager, Industry Policy and Economic Analysis Branch, Industry and Small Policy Business Division

Innovation Division

Mr Ken Pettifer, Head of Innovation Division
Ms Tricia Berman, General Manager, Innovation Policy Branch, Innovation Division
Mr Peter Chesworth, General Manager, Pharmaceuticals, Health and Industries and Enabling Technologies Branch, Innovation Division
Mr Tony Weber, General Manager, Innovation Analysis Branch, Innovation Division

Manufacturing Division

Mr Steve Payne, Head of Manufacturing Division
Mr Mark Durrant, General Manager, Automotive and Engineering Branch, Manufacturing Division
Mr Ivan Donaldson, General Manager, Australian Building Codes Board, Manufacturing Division
Mr Mike Lawson, General Manager, Competitive Industries Branch, Manufacturing Division
Dr Michael Green, General Manager, Innovation and Space Branch, Manufacturing Division
Mr Murray Fearn, Acting General Manager, Working Groups Unit, Manufacturing Division
Mr Alan Coleman, Manager, TCF Policy Section, Manufacturing Division
Mr Darren Atkinson, Manager, Pulp and Paper Industry Strategy Unit, Manufacturing Division

National Measurement Institute

Dr Laurie Basley, Chief Executive Officer, National Measurement Institute

Questacon

Professor Graham Durant, Director

Science and Infrastructure Division

Ms Anne-Marie Lansdown, Head of Science and Infrastructure Division

Ms Mary Finlay, General Manager, International Science and EIF Branch, Science and Infrastructure Division

Mr David Luchetti, General Manager, Science Policy and Programs Branch, Science and Infrastructure Division

Mr David Wilson, Acting General Manager, Research Infrastructure Branch, Science and Infrastructure Division

Ms Julia Evans, SKA Forum Taskforce

Research Division

Ms Anne Baly, Head of Research Division

Ms Stella Morahan, General Manager, Cooperative Research Centres Branch, Research Division

Dr Anne Byrne, General Manager, Research Funding and Policy Branch, Research Division

Ms Susan Jabs, Acting General Manager, Compacts and Co-ordination Branch, Research Division

Dr Mark Thomas, Acting General Manager Research Funding and Policy Branch, Research Division

CHAIR—We are changing portfolios and so I just need to run through a couple of things prior to that. The Senate has referred to the committee the particulars for proposed expenditure for 2009-10 and related documents for the Innovation, Industry, Science and Research portfolio, the Resources, Energy and Tourism portfolio and the Treasury portfolio. The committee has set Thursday 1 April 2010 as the date by which answers to questions on notice have 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 assistance is needed, the secretariat has copies of the rules. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which your 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)

[12.01 pm]

Australian Nuclear Science and Technology Organisation

CHAIR—The committee will begin consideration with the Australian Nuclear Science and Technology Organisation and will then follow the order as set out in the circulated program. I welcome Senator Carr, the Minister for Innovation, Industry, Science and Research, and officers of ANSTO. Minister, would like to make an opening statement?

Senator Carr—No.

Dr Paterson—We have no opening statement.

Senator LUDLAM—I have got a couple of general questions. I would like to refer you to page 75 of your most recent annual report. Can you indicate for us how much Zigmund

Switkowski was paid for his work as the chairman of the ANSTO board for this period? It is a bit ambiguous in the annual report as to which remuneration rate refers to him.

Dr Paterson—We will take that question on notice.

Senator LUDLAM—There is one notation in the remuneration bracket between \$375,000 and \$389 000. You have got one person in that bracket. Can you confirm to us whether that is Mr Switkowski

Mr Cubbin—No, it is not.

Senator LUDLAM—If you could come back to us on notice that would be great. You may not have this information with you at the table, but I am requesting from you a list of the speaking engagements accepted or undertaken by Dr Switkowski in 2009 and the cost of travel and accommodation to facilitate these. If ANSTO did not pay for it, who did? Recognising that this gentleman can do whatever he likes on his own time—I have had correspondence with the minister on this issue as well—and that he is free to express his mind in his own time. What I am specifically looking for are speaking engagements in which he is speaking about nuclear power.

Senator Carr—It is not competent for these officers to go to the issue of who paid for any expenses that Mr Switkowski entertained if it was not from this agency. So all they can do is provide you with advice on matters that go to payments made by ANSTO and other advice that relates to government activity. I do not believe there are any payments that could be made. They simply cannot comment on anything outside the purview of ANSTO's payments.

Senator LUDLAM—I accept that. Any details that you can provide for us that go directly to the budget of ANSTO would be greatly appreciated—for travel and speaking engagements. Could you provide us with an update of the operation of the research reactor, which you have sketched out in the annual report. You said that it has operated as scheduled and it is working well. Given its troubled history, can you provide us with a breakdown of days that it was open and closed for the financial year covered by this report? Were there any unscheduled outages and is the reactor now working as designed?

Dr Paterson—We will take that question on notice and provide a report on the days it was at power, the availability of the reactor and planned and unplanned outages.

Senator LUDLAM—Presumably that will have a bit of detail. Is there anything that you want to tell us about or anything that comes to mind? Was there anything unusual in the operation of the reactor during the period covered by this report?

Dr Paterson—There were no events that I would report to this committee now other than the ones that we will take on notice.

Senator LUDLAM—In previous estimates—probably the one before last, I think—we discussed at quite some length your negotiations with INVAP. You indicated at the time that you were working toward a framework for concluding all the outstanding contractual issues together. At the time—this was some months ago—you said that there had been progress in finding a way forward. Can you update the committee on the status of those talks with INVAP regarding responsibility and liability for the delays with the reactor?

Dr Paterson—I can inform the committee that we have had a successful round of negotiations with INVAP. All the matters that were outstanding were brought together in that negotiation. That negotiation is in the final process of being legalised and reduced to a final legal form. It positions the responsibilities of both organisations with respect to the liability and the ongoing support of the reactor in the future.

Senator LUDLAM—So that has not been packaged up yet, but you are reasonably confident that it is well on its way. How much can you tell us about the content of what is coming forward in that?

Dr Paterson—A number of those aspects would be reportable to this committee. Others would be commercial-in-confidence. When we have completed that work I will take an opportunity to report fully to the committee on things that are in the public domain.

Senator LUDLAM—I recognise, obviously, that that is still on the go. Do you have an estimated time for when those negotiations will be finalised and you actually will have something reportable?

Dr Paterson—This particular round of negotiations has been completed. As I indicated we are in the legalisation process.

Senator LUDLAM—What does that actually mean?

Dr Paterson—That takes the broad agreement that was reached, which is recorded as a result of the meetings. It is then submitted to the lawyers of both organisations, who refine the text in a way that we can make it a component part of the contractual arrangements between us.

Senator LUDLAM—What is your expected date of finalisation of that process?

Dr Paterson—The earliest expected date would be during the course of April. It is likely that the latest date would be during the latter part of May or early June.

Senator LUDLAM—April to May. Last time we met we did speak at length about an occupational health and safety incident that had occurred, not at the reactor, but, I think, in the isotope production plant or the radiopharmaceutical plant. You said at the time: ‘We are investigating the root cause of these recent incidents to understand whether it is to do with the training and supervision of staff or whether it is to do with defects in the facility.’ You stated that when the full assessment was complete you would be happy to report about what you thought the root causes were. Can you please provide us with an update about your internal investigations and what they have yielded.

Dr Paterson—We have completed our internal investigation and the report was presented to me in the latter half of October. That report immediately preceded an ARPANSA investigation that covered the same domain. The ARPANSA report has been received by ANSTO and is being considered by ANSTO as well.

Senator LUDLAM—Did your report inform that ARPANSA investigation or were they conducted separately?

Dr Paterson—The report was submitted to ARPANSA as part of their investigation. There is a comment in the ARPANSA report that they did not specifically use our report in any way to reach their conclusions.

Senator LUDLAM—But they were informed by it?

Dr Paterson—They were informed by it.

Senator LUDLAM—Will the report that you have conducted remain an internal document or is there some mechanism for reporting to the parliament or to the public about what you found?

Dr Paterson—The report is currently an internal document, and I believe it should remain an internal document until all the attendant investigations by external agencies are complete. At that point, we will review the position.

Senator LUDLAM—The two investigations that I am aware of that are afoot are the ARPANSA and the Comcare. So you will consider how much you will release at that point?

Dr Paterson—That is correct, and we have not ruled it out.

Senator LUDLAM—Without asking you to table that report, when workers were exposed to radiation—and I recognise that there is some dispute or ambiguity about the doses that were received by the workers on site at that time—what follow-up medical treatment and counselling were made available to them?

Dr Paterson—I think, with the benefit of our internal report and the benefit of the ARPANSA report, there is indeed no dispute at all about the doses received by the workers. I think there is a consensus that a low-level dose was received by a number of workers. It was not at a level which would be required to be reported to ARPANSA, and in that respect there is common cause between ARPANSA and us in the reports. The second issue is that it came to our attention during the course of May that one staff member was particularly concerned about that incident. That in fact precipitated some of our further investigations and led to our own detailed review. That staff member has been counselled on a number of occasions and has met with a number of our health physics people and had the situation explained to him. I think that he had a significant level of anxiety for a period of time—

Senator LUDLAM—Did that officer seek counselling or was it offered?

Dr Paterson—I believe that he was offered access to our normal medical facility. We also have a counselling service available to all staff at any time at their self nomination. All of those facilities would have been available to him.

Senator LUDLAM—I cut you off there. Was there anything else you were describing?

Dr Paterson—I think this is a fair description of the situation unless there is any follow-up.

Senator LUDLAM—That is just the one officer, then, who sought further advice from you?

Dr Paterson—Correct.

Senator LUDLAM—Nobody else in that incident?

Dr Paterson—I know of no other officer who sought specific advice or counselling relating to doses received on that day.

Senator LUDLAM—So you can confirm for us that ARPANSA's investigation into that moly-99 incident is still afoot? Or is that complete?

Dr Paterson—ARPANSA has submitted an inspection report to us. We have received that inspection report. The inspection report was shared with all the staff who were involved in the incident and a meeting was held yesterday. They were given the opportunity to study the report. There was a full discussion of the items raised and the recommendations made in the report. It was, I understand, a very positive meeting. Staff have engaged, therefore, with the report in detail. Staff have also made some additional recommendations which we can take forward for further improvements of safety and operations in that environment. We will be taking the comments that staff have made about the report, which has full acceptance of our accountability and responsibility and interest in the safety of all our staff, into a meeting with ARPANSA which will lead, I believe, to a closure of this particular incident.

As indicated in the ARPANSA report, there was no evidence of a cover-up. The doses received by workers were low and below any threshold that would have to be reported, but they make nine excellent recommendations for improvements that can be made. These substantially overlap with our own recommendations from our own investigation, and we are prioritising those particular recommendations to expedite them to further improve the safety of the facility, which is already very high. For example, we process 300 vials a week in the facility and we will probably have one vial drop during the week—so that is one in 300—and there will be one significant radiation event in every 30,000 vials processed. So we believe that the safety levels are good, but we will continuously work to improve them further.

Senator LUDLAM—I am aware that we are running the clock down, so thanks very much for providing that to us. I will probably submit a couple to you on notice because I guess we are not going to get to them now. Can you confirm that a Comcare investigation into that incident is also underway?

Dr Paterson—There is a Comcare investigation underway. We have submitted a first tranche of documents. We are not able to control a time line for that, but we will inform the committee when we are asked about it.

Senator LUDLAM—I understand. Just finally, then, an occupational health and safety rep was stood down for a period of time in relation to that investigation and subsequent to the incidents that we are talking about. Has that OH&S role been given to another person, or are you one rep down while he is stood down? Can you confirm for us that he is still stood down at this time?

Dr Paterson—The safety rep role has been transferred to another person. The person was stood down because of a staff incident that warranted him being removed from the site. It had nothing to do with either investigation that is underway. That is a detailed matter that I cannot really serve here because it is a matter that is still open.

Senator LUDLAM—Thanks. I will submit a couple more questions on notice related to that. Is ANSTO planning on engaging in any more polling on its public website?

Dr Paterson—ANSTO will continue to do online polling and questionnaires on its website in the future.

Senator LUDLAM—Can you tell us whether you have changed your web communications guidelines since the incident last year, which you are no doubt aware of, in which ANSTO changed a question—after several hundred people had voted in an online poll—in order to make it appear as if respondents voted in favour of nuclear power when in fact they had done the opposite? Have you changed any of your internal processes since that—I do not know how to describe it—incident?

Dr Paterson—Senator, we did not change the guidelines because the guidelines were indeed violated by our staff member, but we have changed our processes.

Senator LUDLAM—Could you just briefly describe for us what that means?

Dr Paterson—Yes. What it means is that the authorisation to change the website is now at a more senior level and it is with a line manager rather than a technical person.

Senator LUDLAM—I will be sure to vote in any future polls. Thanks very much for your time.

CHAIR—Senator Eggleston?

Senator EGGLESTON—I have some questions about medical isotopes but I will put them on notice.

CHAIR—Thank you. Senator Bushby has a few questions. Senator McGauran, you only have one. Is that right?

Senator McGAURAN—No.

CHAIR—We will go to Senator Bushby.

Senator BUSHBY—Thank you, Chair. Thank you, ANSTO, for coming along today. ANSTO as an organisation is on record as being supportive of the feasibility of the nuclear energy industry in Australia. Is that correct?

Dr Paterson—ANSTO is not on record in that regard. ANSTO has submitted reports indicating global approaches and the options that might be available in Australia.

Senator BUSHBY—In terms of the feasibility of an industry—not so much in terms of the cost but in terms of being able to do it in Australia—

Dr Paterson—We have not done industry assessments by ANSTO but we have reported on the global setting of nuclear power.

Senator BUSHBY—Are you able to assist me by giving me an indication of how long it would take to actually get a nuclear energy reactor up and running in Australia if a decision were made to do that?

Dr Paterson—I think that, if one draws on the international experience, the shortest time currently achieved in any country without a regulatory infrastructure has been of the order of 12 years. The longest time is an infinite period.

Senator BUSHBY—Okay, 12 years. How much of that 12 years would be involved in the actual construction and how much would be involved in getting your regulatory framework right and in getting the planning approvals and so forth?

Dr Paterson—We could not answer that question for Australia without a specific program in place.

Senator BUSHBY—The main concern—and it is not the only one, I acknowledge—regarding the nuclear energy industry seems to be the disposal of the waste that results. How realistic is the concern regarding nuclear waste? Are there realistic and safe options for disposing of nuclear waste or are there any under development that you are aware of?

Dr Paterson—This is a matter of global discourse. The IAEA and the Nuclear Energy Agency regularly provide technical updates in this regard. I have not studied the most recent ones.

Senator BUSHBY—Is ANSTO involved in the development of any alternative ways of dealing with nuclear waste?

Dr Paterson—ANSTO has a long history of working with nuclear waste forms. In particular, people will know of synroc, which is an iconic research program that has been conducted for many years. A small subset of that program is directed to difficult and intractable wastes, and there are ongoing positive developments in the application of that technology both for Australian wastes—that is, for the moly radiopharmaceuticals production—and in certain international settings.

Senator BUSHBY—Would you outline for the committee what synroc is and how it works?

Dr Paterson—Synroc is an alternative to nuclear waste that does not use cement or glass but actually incorporates the waste in what looks like a mineral composition, which would be very much like a rock with very stable geological characteristics. It strengthens that capability by hot isostatic pressing that material to remove any defects or voids, which reduces the propensity for the water and acids that are found in geological environments to intrude into the synroc samples. It is a world-class technology, it is globally respected and—

Senator BUSHBY—And it has been developed by ANSTO?

Dr Paterson—It was developed by ANSTO and the core intellectual property remains ANSTO's.

The **Senator BUSHBY**—Is there any interest from other nations where they do have nuclear energy in actually using synroc to dispose of their waste?

Dr Paterson—We currently have interest from both countries with nuclear energy and countries which have other wastes which are not nuclear-energy related. That interest continues to increase and shows, I think, the value of this particular approach to waste disposal. It is not a comprehensive approach which will deal with all nuclear wastes.

Senator BUSHBY—Is it actually in use at the moment anywhere?

Dr Paterson—It is currently in experimental development in the United States, and we have committed to processing our moly nuclear waste using a plant based on these core

technologies. The first conceptual and detailed design phase of that plant is in progress at present.

Senator BUSHBY—How does it compare in a cost against traditional methods of disposing of radioactive waste as an option?

Dr Paterson—One would have to look at each waste on a case-by-case basis. Essentially, the three core technologies of cementation, glass or HIPping are always under consideration in this regard. In general, our process costs are higher but our waste volumes and storage costs are much lower. When the benefit-cost analyses are undertaken this shows in some cases the unique benefits of the synroc technology.

Senator BUSHBY—Over the life cycle—in the long term using synroc and taking into account the actual benefits that it delivers in terms of managing waste and risk minimisation—it actually stacks up pretty well against other alternatives?

Dr Paterson—It is a very significant and positive technology. It was recently the matter of a record of decision by the United States Department of Energy for the Idaho calcines waste.

Senator BUSHBY—Given where it currently stands in terms of its development and the increasing level of interest in its use that you mentioned earlier, does Australia through ANSTO have the potential to reap some financial benefits out of its development?

Dr Paterson—I believe that there will be financial benefits downstream but, both for commercial-in-confidence reasons and for strategic reasons, it is not appropriate to speak about them in the detail.

Senator BUSHBY—I was not going to ask about the details—just in a general sense.

Dr Paterson—There will be.

Senator BUSHBY—Thank you.

Senator McGAURAN—I would like to congratulate the health research that ANSTO undertakes. It is magnificent. Would the research projects you have underway at the moment be on your website?

Dr Paterson—In some cases where they have reached the public domain we will present the papers and talks and associated issues. In some cases where the work is done in conjunction with the community and they have received grants from funding agencies in Australia, it is on their websites. In some cases, the Australian Institute of Nuclear Science and Engineering, which is our specialised relationship management organisation to bring people into ANSTO, the particular projects will be on those websites. But you are absolutely correct to say that a number of the developments are world class and they has significant potential for improving the life and health of Australians and more broadly the global community.

Senator McGAURAN—Absolutely. And this is where you have made your reputation, and you have gained respect and frankly your justification in regard to your nuclear work and the public's perception of you. So I am sorry I cannot say the same about your work in regard to climate change. Looking at the results from your annual report, it seems all so trivial. You have investigated the Italian stalagmites, Greenland methane and Mongolian glaciers. There is

a finite resource for any department or any organisation like yourself, and you have to make decisions where you are going to put your best dollar and your best brains. Given your reputation is so centred on the health area, and given your breakthroughs are a magnificent and the work I see—and I'm happy if I'm given more time—in regard to climate change is utterly trivial. I just wonder where it is all going. My question is: where do you make the resource allocation budget decisions about whether it is in the health area or climate change? What I am trying to get who is: are you directed, if not gang-pressed, by the minister to put resource dollars into climate change? I am happy to go through why I think some of the results are going nowhere.

Senator Carr—Given that we have a very limited time to discuss these issues, Senator, I am wondering whether or not your comments, in themselves being trivial and superficial, warrant consideration by this committee?

Senator McGAURAN—This is a question in regard to budget allocation.

Senator Carr—It is a very simple proposition: ANSTO's research and the applications of its research go to a very wide range of industries across this country, whether it is looking for water, examining the safety of bridges, ensuring that our roads are safe, materials science or in the treatment of cancer. This is an agency that serves this country in many, many ways. I think it is somewhat presumptuous of you to suggest that their work is trivial or superficial.

Senator McGAURAN—I have asked: how do they make the decision to allocate dollars to climate change as distinct from health?

Senator Carr—They are under no direction whatsoever from the government as to how they run their research program. I think your question really is right off-beam.

Senator McGAURAN—But Dr Paterson has to answer the question—or does he not?

CHAIR—Sorry, Senator McGauran, the committee now needs to move on. We are well over time.

Senator McGAURAN—One last question. To give some credibility to the research in regard to climate change, are you saying that due to your studies of the Greenland ice sheets and methane cattle do not trigger global warming? Is that the bottom line of your research?

Dr Paterson—First of all, thank you for your complimentary comments on our medical research, and we will continue to be focused in that area. I can only say that I profoundly disagree with your assessment of our research. The three areas you have mentioned, which is methane, water resources in Western Australia and glaciers are three of the hottest topics in climate change at the moment, and the paleoclimate work we do in this regard—

Senator McGAURAN—No, I did not mention water in Western Australia. I see you have got the commission from the Western Australian government. I mentioned three others. Anyway, go on.

Dr Paterson—These are three of the critical issues. We tend not to focus on forward-looking assessments of climate change issues but paleoclimate studies using nuclear techniques. That is the focus of our work. It is carefully considered, it is peer reviewed and it is regularly published in top journals.

Senator McGAURAN—What is the bottom-line result of the Greenland ice sheet study in regard to methane? You said that it had direct links with the climate change debate.

Dr Paterson—Absolutely. As you will be aware, clathrates, which are methane-containing compounds which are found under water in the sea and are found in some areas under the ice in the Northern Hemisphere, are one of the greatest areas for climate change scientists because, if this methane is catastrophically released through changes in the climate, it would lead to a spike warming event of such proportions that it would threaten many, many millions of people. This methane research, therefore, is absolutely fundamental to understanding the likelihood of such events and how they can be mitigated by understanding the historical events in climate change. It is absolutely crucial, it is fundamental and it is world class.

CHAIR—Thank you.

Senator McGAURAN—I have a follow-up question.

CHAIR—If we are going to continue to ask questions, I think the committee needs to go into recess to work out where we are going to take time from.

Senator COLBECK—I just want to clarify a point from Senator Carr's comment. I can do it in the next section if you like, but I just want to clarify that ANSTO's research priorities are not in any way influenced by the government's research priorities. Is that what you are saying, or not?

Senator Carr—The national research priorities are relevant. But I do not intervene in the research program of ANSTO.

Dr Paterson—I can confirm that.

CHAIR—Thank you to ANSTO for coming in this morning. We will now move to the Commonwealth Scientific and Industrial Research Organisation.

[12.30 pm]

Commonwealth Scientific and Industrial Research Organisation

CHAIR—I welcome the CSIRO. Dr Clark, do you have an opening statement you would like to make?

Dr Clark—I do have a short opening statement. The CSIRO ranks as one of the world's leading research and development organisations. I think that is something all Australians are proud of. I know I am particularly proud of it. We are in the top one per cent of R&D labs in the world in 14 out of 22 of our research fields and in three areas the CSIRO ranks in the top 10 institutions in the world. We produce around 5,000 scientific papers and book chapters each year. Our citation rates, which form one of our measures of quality, are the highest of any large research institution in Australia—80 years of research and efforts by our 6,500 staff go online every single time we publish a scientific paper. So we always need to ask ourselves: is the scientific evidence verified, is it communicated clearly and does the scientific evidence presented support the conclusions that have been drawn?

We have a clearly defined process of internal peer review of our science and an approval process for our publications. This occurs before papers are submitted for publication and is in addition to the editorial review that journals themselves undertake. Science will continue to be

questioned. That is the inherent nature of science and it is a very good thing. Without continually challenging the scientific findings we simply cannot have confidence in what we find. In leading the officers that appear before you today, at a time when there are significant discussions in this country and elsewhere on the integrity of science I wanted to make it very clear to the members of this committee that I have confidence in the robustness of the science that the CSIRO undertakes. My team and I uphold that value that underpins the CSIRO and has been part of our foundation. That value is the integrity of our excellent science.

Senator McGAURAN—I thoroughly agree with your comments. The CSIRO's reputation, particularly in the rural sector, was iconic until the climate change debate which is very sad. It was iconic—the breakthroughs going back to calicivirus have held you in good stead. But along comes the climate change debate and it has to be said that, at least in the community perception, the CSIRO has been—to put it mildly—compromised. I have sat in on many committees—not this one; this is the first time I have sat in on this committee—such as the treaties committee, for example, and many of your scientists have come forward and said that all the problems to do with the Murray River, for example—let's just pick one iconic issue of climate change—such as water shortages, come back to climate change. There is no comment about allocation, usage, El Nino, natural drought or natural climate change for that matter. We are talking about human affected climate change. Of course, the Great Barrier Reef is another icon that has recently fallen.

You have a chance to make up some new ground. In your CSIRO report released on 18 January 2010, are you saying there is no link between human made climate change and the drought now affecting the Murray-Darling Basin? Is that correct? Is that what that report is saying now?

Dr Clark—I think we have been very clear about some of the facts, and certainly the consequences at the local level are that it becomes difficult to make definitive statements. But we have with us here today Andrew Johnson whose researchers have been working in that particular area and can go into a lot of detail on the definitive statements and the science behind our comments on rainfall and the Murray-Darling Basin.

Senator McGAURAN—That is not an answer.

Dr Johnson—Senator, maybe I can have a go at answering your question. CSIRO has been on the public record for some time as saying that the drying trend that we have seen in eastern Australia is due to both the natural variability in climate and the effects of climate change.

Senator McGAURAN—Human induced climate change?

Dr Johnson—Yes, human induced climate change. We have been on the record for some time now in saying that the contribution of each of those two factors remains uncertain. Our work is investigating that in more detail. We have been absolutely clear.

Senator McGAURAN—You have not always said that. You are saying it now.

Dr Johnson—No. We have been on the public record for some time on that. I would be happy to provide you with references going back some time in that regard. We have also been very clear about the uncertainties associated with understanding the relative contributions of both natural variability and human induced climate change on conditions in eastern Australia.

Senator McGAURAN—The Australian Institute of Marine Science, in short, says that there is no threat to the Great Barrier Reef.

Senator Carr—That is not true. That is your opinion. That is not true and you have the chance to pursue that. If you are relying on the *Australian* newspaper for a source of advice, I suggest that you ask the officers directly instead. That statement, in short, is not true.

Senator McGAURAN—I am asking: do you agree and support the in-a-nutshell comment that mass coral bleaching is unlikely this summer, was not there last summer and is not likely in the future—except for certain areas, but that is not due to human climate change effect?

Dr Clark—The area of marine science is one where we have a number of researchers working and we have our expert here today to cover all of those questions.

Dr Johnson—May I get clarity from you as to the exact question you are asking. It is not clear to me what information you are seeking from me.

Senator IAN MACDONALD—Do you agree with the comment reported in the *Australian*, quoting someone from AIMS, that there was no coral bleaching last year and that there is none predicted this year? Of course, this was confirmed at yesterday's estimates by GBRMPA as well. I think Senator McGauran's question is: do you agree with it?

Dr Johnson—I have not seen the report that you refer to. If you are asking me for comment on it, I would be happy to have a look at the report and take that question on notice. But, without having seen the detail of the report, I am not in a position to comment.

Senator McGAURAN—What is your view on the Great Barrier Reef?

Dr Johnson—In what context?

Senator McGAURAN—Is it in danger of disappearing on us? These are the comments we hear on the floor of the parliament: it is being bleached away due to human induced climate change.

Dr Johnson—Certainly our projections of the future, over the next 50 to 100 years, in Australia show that the temperature of the oceans will increase, as will the acidity of the oceans as they absorb more carbon dioxide from the atmosphere. Both of those phenomena are threatening processes for the Great Barrier Reef. I cannot tell you for sure whether the Great Barrier Reef will disappear or not, but I can tell you on the basis of the best available knowledge and scientific evidence that we have to date that the increase in temperature of seawater, the increase in carbon dioxide in the water and the likely increase of severe weather events such as cyclones—all three of those phenomena are threatening processes to those ecosystems. So the risks to the health of the Great Barrier Reef are significant.

Senator McGAURAN—Dr Johnson just confirmed that CSIRO also agree that human induced climate change brings about extremes in weather. That has been debunked, and you are still hanging on to that.

Senator Carr—Chair, there has been a suggestion made here based on an erroneous report in the *Australian* newspaper of 3 February. I understand the committee has not called AIMS, which is the committee's choice. But Dr Ian Poiner, the CEO of the Australian Institute of Marine Science, has been seeking to have a letter published in the *Australian*—and I

understand that the *Australian* has not published that letter. I wish to table that letter now. It actually puts the view of AIMS, which is in stark contrast to the suggestions made here and made by the *Australian* newspaper on 3 February.

Senator IAN MACDONALD—Minister, did this letter arise after contact from your office?

Senator Carr—This letter is totally unrelated to our office. It is written by the CEO. I was not aware of the letter's construction until I actually saw it on *Media Watch* two nights ago.

Senator IAN MACDONALD—So you can assure us that neither you nor anyone from your office or the office of the Minister for Climate Change and Water has contacted Dr Poiner.

Senator Carr—I can assure you that we have had no contact with AIMS until this matter actually appeared on *Media Watch* two nights ago, where I discovered just how there has been a gross manipulation of AIMS's report by the *Australian* newspaper and the *Australian* newspaper's refusal to publish the letter by AIMS correcting the record.

CHAIR—Senator Eggleston has questions.

Senator EGGLESTON—It is not an unrelated question: this organisation is called the Commonwealth Scientific and Industrial Research Organisation. Do you, therefore, say that you adhere to the scientific method and all that implies—

Dr Clark—We do.

Senator EGGLESTON—in terms of the free and unrestricted publication of the results of research, and the conclusions that can be drawn from those results?

Dr Clark—We have our processes for the publication, which are very robust, to preserve that scientific integrity. We have internal processes for approval and, of course, peer reviewed journals. The publication of our science is peer reviewed as well—robust peer review. So under those very strict guidelines for maintaining our integrity we absolutely encourage research and the publication of it. As I mentioned there are some 5,000 papers and book chapters every year, so it is a very rigorous process for us.

Mr Whelan—I add that the framework that the chief executive has just reported to you is, in fact, embodied in a public research agency charter that the organisation has with the minister. It clearly sets out the requirements of CSIRO to communicate the best research, any new knowledge, factually based discussions and the criticality of doing so on an evidence base.

Senator EGGLESTON—That is very interesting. Last time we met in estimates there was an issue about Dr Spash, a scientist who said that he was being suppressed in publishing his research which was critical of cap and trade emissions trading schemes. I have read a book called *The Climate Caper* by Dr Garth Paltridge, who was head of the climatology department of CSIRO. It is a very small book of 115 pages and in it he talks about the intimidation of CSIRO scientists who did not toe the line on climate change views. That is very interesting in terms of what you have just said because it would seem to be totally at odds with what you have claimed to be your position on the scientific method and the publication of results, an opinion or a conclusion based on outcomes. I notice that in the *Australian*—which, of course,

Senator Carr will regard as being a rather undesirable publication, but nevertheless is regarded with great respect within most circles in Australia—there was an article on 5 November in relation to the episode when Dr Spash had been disciplined. It said:

The move comes amid a crackdown by the CSIRO on public comments by scientists in their personal capacity. The organisation began rolling out a new public comment policy three weeks ago that limits what scientists can say publicly about issues within their area of expertise.

Can you tell us about the new rules which govern what scientists can say about their research?

Dr Clark—As Dr Whelan said, we have a charter as well as our internal processes. That charter in fact was developed with full engagement by our staff and our unions, and it is a very robust charter. It protects one of the most fundamental aspects for CSIRO, and that is, making sure that we can provide comment that is not caught up in the political system. We do not make comment either for or against the policies of governments or oppositions. That is very important for us because it maintains our integrity and our position as a trusted advisor.

The issue that you referred to with regard to Dr Spash, we always encouraged publication of the paper. We have published many papers on the ETS and other mechanisms. This was always an issue of quality; it was always an issue of maintaining the standards of the organisation. We always encouraged Dr Spash to publish the paper. I personally encouraged him to do so.

Senator EGGLESTON—Really? That all sounds very interesting considering that he resigned in the end because he felt he was not able to speak about the conclusions he drew from his research. It certainly does not square with the views of Dr Garth Paltridge in his book, *The Climate Caper*, in which he said there was systematic intimidation of scientists within CSIRO who did not agree with the views being put forward about the human causes of climate change. They are a little bit hard to square away, Dr Clark, those two views. You say you are committed to the scientific method and all that that implies, but it appears that your version of it is a little bit more Orwellian.

Dr Clark—I do not detract from that at all. I certainly reinforce that we need to maintain those standards. It is interesting; we have seen in the public debate recently what happens to public confidence when those standards are breached. And so it is something that we uphold and we ask all of our scientists to maintain this integrity. It is really unfortunate when we have a scientist who cannot meet those standards.

Senator EGGLESTON—I do agree with you that public confidence has been breached in recent times over these sorts of issues and refer specifically to the International Panel on Climate Change, so much of whose commentary appears to be fraudulent. That has certainly destroyed public confidence in what they have had to say. But we come back to the issue of Dr Spash and the remarks of the former director of your department of climatology, Dr Paltridge. We have all heard political doublespeak before, Dr Clark, and we would like to see the CSIRO actually adhere to the principles which it says it stands for.

Dr Clark—Absolutely, and I hold those principles very dear. It is certainly why we absolutely maintain our integrity. It is an area that neither I nor the team that I lead would compromise. I do not think that the community wants to see us compromise on the integrity of excellent science.

Senator EGGLESTON—How do you square that and explain then the resignation of Dr Spash?

Dr Clark—We worked with Dr Spash, we looked at addressing the issues with him and we encouraged him to publish the paper. It is very unfortunate that that was not the case and that we could not move forward.

Senator EGGLESTON—What Dr Spash did, of course, was critique the benefits of emissions trading schemes. Surely that was just a general issue which he was entitled to do based on his research. If you put a political interpretation on it then surely that is a breach of your commitment to the scientific method?

Senator Carr—What Dr Clark has indicated to you is this has nothing to do with the commentary of the CSIRO employee in terms of his personal political opinions, nothing whatsoever.

Senator EGGLESTON—It is not political; it is scientific.

Senator Carr—I will just indicate to you that there was a statement issued by CSIRO, which I tabled in the parliament, which outlined the procedure. I trust you have read that, Senator. It outlined the position that the CSIRO took on this matter. That was tabled in response to the return to order. This was Dr Megan Clark, 26 November 2009. The paper had been published as proceedings of the conference. All the carry-on about it not being published was obviously misplaced because the document already had been published.

I have here commentary from the external reviewer with regard to this paper. This is a reviewer that supports Dr Spash's position in that he does not agree with the ETS. This is not a person that is trying to defend the ETS. He points out that he agrees with most of the comments that Dr Spash is making about what he regards as the appalling failings of the ETS in practice. I quote:

Nonetheless the paper is weak as it stands. It could be so much better.

And I quote again:

... a fundamental weakness of its critique of ETS is that many of the objections raised apply to other forms of environmental regulation too. ... The structure is a major problem.

I quote again:

In my view sections 3 and 4 should be substantially re-written: the rewrite could be much shorter and have more focus and impact without leaving anything important out.

I quote again:

I see the link between the psychology and ethics ...

It is not about climate change science as such—it was for publication in a journal on political economy and so there were views put in regard to broader issues in relation to other branches of the humanities. I quote:

More generally the exposition of theory is often thin and not linked to empirical discussion.

I quote again:

Too much of the paper reads like weak polemical journalism. I write this even though I largely agree with every piece of these polemic assertions (or at least the ones I understand). In my view, journal

articles should be aimed at the neutral or even hostile reader, rather than hectoring them, or preaching to the converted.

Senator, this is the paper you are defending against CSIRO's claim that their issue went to the question of quality assurance. In my judgment, this is a clear case of CSIRO defending the brand name of this organisation and has absolutely nothing to do with the personal political opinions of the author of this paper.

Senator EGGLESTON—Thank you, Senator Carr. I take on board what you say. However, it does not change the similar views of Dr Paltridge, who in his book talks about the systemic intimidation of people within CSIRO who took alternative views. Another article by Nicola Berkovic in the *Australian* says that the initial decision to gag the paper involved the head of CSIRO's environment group, Andrew Johnson—who is here today—who is a member of the organisation's executive and reports to Dr Clark. The article goes on to say that following a meeting with Dr Spash and Mr Popovski, Dr Clark said the paper would be amended to comply with the CSIRO charter. That is a very interesting use of words isn't it: 'to comply with CSIRO's charter' on what should be said. When you put that together with the comments of Dr Paltridge it still seems to me that the CSIRO is not honouring the spirit and meaning of the scientific method, and that this is a matter of political manipulation of a report and an outcome by one of its scientists.

The fact that this occurred in a general sense is backed up by Dr Paltridge in his book. I think this is a matter which is very reprehensible and I really feel that the organisation should examine itself and where it stands on this issue.

Dr Clark—Dr Paltridge has not worked for us for some 15 years. I think Dr Johnson will have further detail of the timeframe, but I make no apologies at all for maintaining the standards of CSIRO and the standards of our publications. It is something that we simply will not compromise. It is important to every single scientist in the organisation, and I simply make no apologies for it.

Senator EGGLESTON—Thank you, Dr Clark. As I said previously, it sounds a little Orwellian to me.

CHAIR—Dr Clark, had you finished?

Senator EGGLESTON—I have some other questions, if I might, about SKA. Could you tell us what the status of the SKA project is?

Dr Clark—Certainly. The SKA project is on time and on budget. We erected the first antenna on the ground over the Christmas period.

Senator EGGLESTON—Does that mean we have been awarded the project?

Dr Clark—No, not at all. It is still in competition for the final SKA. I am talking about the pilot project. We have with us Alastair Robertson who can cover any further detail, but the project is well on time and on budget and progressing extremely well.

Dr Robertson—I just want to clarify that the SKA Pathfinder is the project that we are managing. The SKA will be an international project which will be tendered for by Australia and other countries. We have set up the pilot program of ASKAP, the Pathfinder project. I would confirm that the project is proceeding as we would expect—on time and on budget.

There are some important milestones that I need to communicate. The first is that one of the outstanding needs was to assign and deal with the site itself and secure that site. We signed an Indigenous land use agreement on that site some time ago. That has allowed us to proceed with the practical building of the ASKAP. The first antennae I was located on that site last month. We have also made sure that we have a project which is commencing with the Pawsey centre, to develop the computing facilities in advance of that project being up and commissioned. The last point I would like to make is that, recently, we just announced that we have appointed Dr Philip Diamond from overseas. He is currently with the University of Manchester. He is the director and responsible for the Jodrell Bank facility in the UK. Dr Diamond is one of the leading astrophysicists in the world. He has had a great deal to do with the preparation of the SKA proposals and the estimates of how that might proceed in Europe. It is quite an accolade to Australia and to the CSIRO that he has agreed to come over to Australia to work with us as the Chief of the Division of Astronomy and Space Science.

Senator EGGLESTON—Very interesting. Thank you very much. What contribution did the CSIRO's northern office make to the Northern Australia Land and Water Taskforce report on issues to do with development in the north of Australia and water usage in particular?

Dr Clark—Dr Johnson is here and he and his team have been involved in that.

Dr Johnson—Senator, as you would know, the CSIRO was commissioned by the northern taskforce to undertake a scientific review and support the taskforce's activities. I have indicated that in previous hearings. Our job was to bring to bear the best available knowledge across the zone that was of interest to the taskforce, which we did, and we think we have done an excellent job in doing that. That mobilised over 80 CSIRO scientists and collaborators from other institutions around Australia, including CSIRO staff based in northern Australia but not exclusively.

Dr Clark—Let me be clear: in terms of encouraging the publication of this, the work of that group in that area of ETS policies is something we comment on. We have had several papers. We always encourage our scientists to publish their work—I have personally done this—with a number of changes. In this case, the scientist was not prepared to make those changes to meet the quality. But there was always the encouragement to publish this work and to get it out there into the arena with the quality changes that we required. So they are entirely consistent.

Senator COLBECK—I understand it is a very fine balance, because I have seen circumstances where an organisation has looked to protect itself in the past, in conflict with an individual, and you see it in a whole range of institutions and organisations. We do not need to go down that track. I understand it is a very fine balance. From my perspective, I am just looking to see a consistent approach so that I can be confident in what is coming out on behalf of the organisation. My concern was that I just did not hear that this morning.

Senator Carr—I believe there is a consistent approach, Senator. I would invite you, given that the document was tabled in the Senate –

Senator COLBECK—I did take note of your comments, Senator Carr.

Senator Carr—Okay, but it was previously published—

Senator COLBECK—I am not disputing anything that has been put on the table.

Senator Carr—No, I understand the point. I would urge people who have taken this issue to heart to read the paper. When I read the paper—and I did not intervene in the process—I must say I was really surprised. As a former schoolteacher, I really wondered whether or not this was the sort of thing we would be employing people to write on behalf of the CSIRO. The quality just was not there. What I read out to you was an internal—

Senator COLBECK—Minister, I do not need to go into that because I am not disputing any of that.

Senator Carr—I just encourage you to read the paper and see whether or not you can substantively disagree with what I am saying to you.

Dr Clark—Our processes are very consistent across all of our scientists in terms of working with them to make sure they are published in the most appropriate journals, making sure that the science is robust, making sure that the conclusions can be drawn upon that science. It is a completely consistent process that we use with all of our scientists and all of our applications, and it goes absolutely hand in hand with encouraging them to publish.

Senator COLBECK—I want to go to the CSIRO-Bureau of Meteorology joint global climate model. Can you give me a sense of the investment in the project in the current year?

Dr Johnson—I will have to take that question on notice. I can inform you that CSIRO works very closely with the Bureau of Meteorology. We have a partnership, the Centre for Australian Weather and Climate Research, which brings together both CSIRO's and the Bureau of Meteorology's climate science. We have over 300 of the nation's top climate scientists working together in that partnership, which we think is critical for this country going forward. There are a number of climate models that both CSIRO and the bureau work on. I am not specifically sure which one you are referring to, but if you wanted to detail that more I could give you an answer.

Senator COLBECK—I have been given a list of questions which I will work my way through. It may become clearer. I want to get a sense of investment over, say, the last three years on this model and what is projected. Again we come to some challenges made to the model again by Paltridge and Wentz about some of the assumptions that go into that model. What I am really looking to get to is how the CSIRO and the Bureau of Meteorology actually deal with the challenges—what they do to accommodate those issues into their model and what sort of investment or work is involved in dealing with the process, and updating the model if it needs to be and dismissing or otherwise the challenges that have been made to the model.

Dr Johnson—I will make a couple of points in response. Firstly, as Dr Clark indicated in her opening statement and a number of times during this hearing, there is a rigorous and intense process of peer review that applies to all work that is done in the CSIRO and the bureau has a similar set of standards. We are absolutely committed to that principle, and I just want to reaffirm that in the context of this question.

Senator COLBECK—I am not insinuating that.

Dr Johnson—That was just for the record. Secondly, as you would know our knowledge of the climate situation is improving all the time.

Senator COLBECK—I would say evolving.

Dr Johnson—Evolving and improving. We scientific organisations, as new knowledge comes to bear and our methodologies improve and new information technologies with supercomputing come on line, are continuously improving our models and our understanding of the climate system to reflect that. That understanding is tested constantly in the peer review literature. So I would argue there is a very rigorous process for review and reflection and argument on that.

I would also argue that in all the work that we do we are very clear and transparent and we take pains to point out uncertainties in our knowledge, because there clearly are and the CSIRO is on the record in various forms stating where the uncertainties are and the science that we are doing to seek to close those gaps in our knowledge. There are always, and this is a normal part of science, active debates, criticism and critiques of the scientific work that we do by the likes of many individuals, not just Dr Paltridge. We listen to that criticism absolutely carefully. We do not reject it. We deal with it respectfully, just as we do with critiques from anywhere else in the world. That is a normal part of the scientific process.

Senator COLBECK—So, Dr Johnson, in the circumstance where you receive a specific piece of research, such as the one published by Dr Paltridge or perhaps the stuff by Wentz or any other scientist, would there be a process by which you would respond directly to it as part of the development of the knowledge of the science or accepting it into the model that you are developing?

Dr Johnson—It would depend on the nature of the input. But, as I indicated in my earlier comment, if there is an implication that the CSIRO is not receptive to critique of its work by its peers, I would disagree with that view.

As I have said, it is part of the standards that we hold ourselves true to around scientific excellence. We rigorously review our work and a key part of that rigour is around applying scientific critiques to the science we are doing.

Senator COLBECK—The question I was coming to is this: where would I go to find recognition or otherwise of how the CSIRO had dealt with that piece of work? That is what I am coming to.

Dr Johnson—If there was a specific piece of work—for example, the member for Hughes has written to the minister, I understand, seeking clarification around some of the statements in a paper by Dr Paltridge and another scientist. We have drafted a response for the minister to send to the member to Hughes. That is one pathway by which we would respond to the queries raised around our science and the science that is reported by Dr Paltridge. There are many other methods, as you know, having been on that side of the fence.

Senator COLBECK—Without going through the process that the member for Hughes has been through—

Dr Johnson—There are multiple processes. Again, it would really depend on the nature of the inquiry, the nature of the information that it is sought to clarify. It is case by case.

Senator COLBECK—So, ostensibly, the significance would then reflect in the way that the organisation responded to it—or CSIRO’s perception of the significance of the discovery would reflect in how it was responded to.

Dr Johnson—I reiterate my answer again. We respond to all input, criticism and positive feedback to our science. We do not treat the inputs of Dr Paltridge any differently from those of anyone else in the scientific community who has a view on the work that we do.

Senator COLBECK—If I were to look at that specific piece of science, if the CSIRO accepted it, how would I see the reflection of that in the model that exists between the CSIRO and the bureau?

Dr Johnson—I am sorry, Senator, I am not trying to obfuscate here. Again, it would really depend on the nature of the information that a particular member of the scientific community provided. If it were a query about some of the fundamental observations, that would result in a different response. If it were a query around the modelling that we did, that could invoke a different response. It would really depend on the nature of the inquiry as to how it would find its way into processes. I cannot be more specific. If you have a specific example—

Senator COLBECK—If we were to go to the specific of work that talks of upper level tropospheric humidity from NCEP reanalysis data, how would someone find that reflected in the climate model that is operating between the CSIRO and the Bureau of Meteorology? How would you go about doing that?

Dr Johnson—There is a possibility that it may not be reflected, because, again, depending on the nature of the input, we may decide to accept or reject that view based on our scientific judgment which is, again, just a normal part of the scientific process.

Senator COLBECK—Would there be any statement to say that the criticism exists and whether you have or have not accepted it?

Dr Johnson—Again, it would depend on what format. For example, if that work was expressed in a peer reviewed journal paper, it is common practice for other work relating to the same topic to be referenced as part of that paper, again representing the full breadth of views relating to that subject matter. That is a routine part of the scientific method, and our officers uphold that.

Senator COLBECK—I have some other questions about staffing levels, but I will put them on notice.

CHAIR—We have two minutes. Senator Pratt, who has a question, might like to proceed.

Senator PRATT—Thank you.

Senator IAN MACDONALD—Chair, you wrote me down as third, and you have now called two other senators before calling me. Is there some system in your madness?

CHAIR—I object to being called mad, Senator Macdonald.

Senator IAN MACDONALD—Is there something in your system?

CHAIR—Senator Macdonald, you asked a series of questions with Senator McGauran and I assumed—

Senator IAN MACDONALD—I clarified one question that Senator McGauran asked. I clarified one of his questions.

CHAIR—I think it was a little more than that. But Senator Pratt is a permanent member of this committee and I think she is entitled to ask a question. She has two minutes. If you want to be given this time until 1.15 and then not resume, I will give it to you. Please, go ahead.

Senator IAN MACDONALD—So I am getting 45 seconds?

CHAIR—That is what I am giving Senator Pratt. If you want that time—

Senator IAN MACDONALD—Are you definitely coming back afterwards?

CHAIR—Yes, but I have two other people.

Senator PRATT—We can use up my 45 seconds with Senator Macdonald discussing whether he is going to get the call.

Senator HEFFERNAN—I am going to proceed to lunch.

CHAIR—We will go to lunch. I will resume with Senator Pratt's questions after lunch.

Senator PRATT—Thank you.

CHAIR—I would ask members of the committee to remain behind.

Proceedings suspended from 1.15 pm to 2.14 pm

CHAIR—The committee will now resume. We will continue with the CSIRO.

Senator IAN MACDONALD—I will start, as I always do, by congratulating the CSIRO on what they do generally across Australia. It is a great organisation with a worldwide reputation— although I am concerned about your cutback of facilities in Northern Queensland, which I will come to later if time permits, and I suspect it will not. I was interested in the questions from Senator Eggleston and Senator McGauran about, broadly put, political influence on the CSIRO. I refer you to the Northern Australia Land and Water Taskforce, which was investigating land and water in northern Australia. CSIRO was very much involved in it and Dr Johnson is a very distinguished board member.

Dr Richard Cresswell is quoted as saying:

At the time of the study, all jurisdictions ... had a no-dams policy, and therefore we did not investigate the opportunities for dams in the north.

He goes on to say, in fairness:

We weren't asked not to investigate them, but we were told it wasn't necessary to investigate them ...

Now, there is a CSIRO officer influenced by the political policy of three governments which had, allegedly, a no-dams policy and, because of that, the CSIRO did not look into what would perhaps be the No. 1 issue if you were looking at water in Northern Australia—and that is dams. Can you reconcile that with your comments that you are not subject to political niceties?

Dr Clark—Dr Johnson obviously is part of that task force and can certainly address the issues of the priorities and the work that was undertaken as part of that work.

Senator IAN MACDONALD—But I was asking about the claim of no political influence, when I just demonstrated to you that, because certain political parties had a no-dams policy, CSIRO, in dealing with an issue of water in the north, deliberately did not look at dams.

Dr Clark—There was a way that the science and the science priorities were set. As I said, Dr Johnson can give you a very good insight on how that happened.

Dr Johnson—It is important in responding to your question to understand the process by which we became involved in this assessment. I think you are aware of some of the details but, to be clear, as a consequence of a decision made at COAG, the CSIRO was commissioned by the Australian government in 2009 to undertake an assessment of water availability in the north under a range of future climate and land development scenarios and within a time frame that extended out to 2030. So the first point is that we were commissioned to do the work. The people commissioning the work—the state and territory governments—obviously set the parameters through which we did the work.

The second point I would make is that, in guiding the work that we have done, a steering committee was formed that comprised both state and territory officials. It was that committee that directed the terms of reference that we would then respond to. Again, I think it is important to recognise that, in that particular study, none of the jurisdictions indicated to us that within the time frame of the study—that is, out to 2030—there were any new dams proposed. As you know, in the Northern Territory, there are certainly some dams under consideration to secure the long-term future of Darwin's water supply. But the Northern Territory government's advice was that those dams would not be under implementation until at least 2050, so they were outside the terms of reference for the study. Should the state and territory jurisdictions request that we undertake feasibility assessments of potential new water storages, we have indicated to them, as always, that we stand ready to assist in that regard.

However, we have also indicated in the report that there are significant challenges in the tropics, in the northern areas that we are looking at here, for large-scale water infrastructure. Again, as we have briefed you and Senator Heffernan and others in the past, the key reasons for that are that most of the rainfall is very close to the coastline, where the topography is flat, and so from an engineering point of view there are very few parts of the north that are amenable to large-scale infrastructure. Also, the evaporation rates are very high. As you know, again, at least one-quarter of the water out of Lake Argyle and the Ord evaporates. This balances the ability to catch water, store it effectively and distribute it with the ability to minimise evaporation losses. It is a significant challenge. It minimises the opportunity there.

I repeat: should the state and territory governments wish us to undertake feasibility assessments in that regard we would be happy to. I should also add, as you would recall, that we have done other sustainable yield studies. We have completed studies in the Murray-Darling Basin, in Northern Tasmania, and, soon to be released, in south-west Western Australia. In the Tasmanian study, dams and water storages were considered; in fact, there were 24 under consideration—

Senator IAN MACDONALD—You are making my point for me. According to Dr Cresswell, you were told by someone that it was not necessary to investigate them because of a party political view held by the three governments involved.

Dr Johnson—The three governments determine the terms of reference for the study and we would respond to that if terms of reference were to change. It is not the CSIRO's role to undertake that work, in a sense, independent of that commission. If the commission were to change, we would be happy to take up that offer.

Senator IAN MACDONALD—Who paid for this work?

Dr Johnson—The work was paid for by the Australian government with contributions from the states.

Senator IAN MACDONALD—An organisation like the CSIRO cannot possibly do an assessment, as you are doing with the Australian Sustainable Yields Project, without at least giving some consideration. To not even mention the northern task force seems to me to be a diminution of the reputation of the CSIRO.

Dr Johnson—I cannot speak for the task force, I can only speak on behalf of the CSIRO and the science report. I draw your attention to the science report and the 68 pages in that report and, if you are interested, the 970-plus pages that are in the detailed science report.

Senator IAN MACDONALD—We are getting copies of those.

Dr Johnson—You will see in those reports that we do discuss issues around large-scale water storage. We discuss issues around groundwater storage and we discuss issues around small-scale water storage. With great respect, I think it is a really long bow to draw that somehow there is political interference and hence affecting the integrity of our science when, clearly, we are responding to a set of parameters that are set by state and territory governments in commissioning us to do the work.

Senator IAN MACDONALD—The CSIRO did a lot of work which seems to me to be more social commentary than science.

Dr Johnson—You might have to be specific there. Everything that is in the report has been undertaken with the traditions of the scientific method rigorous peer review. Some of it is not the physical or chemical science that you may traditionally associate with the CSIRO, but the CSIRO does quite a significant amount of social science and economics as well.

Senator IAN MACDONALD—A lot of the recommendations—and a lot of it comes from the CSIRO's work—deal with Indigenous people. The greatest issue impacting on Indigenous people at the current time is the fact that they cannot use their own land in Cape York because the Queensland government has locked up their land with their stupid wild rivers legislation. Yet, there has not been one word of this in a report that is otherwise very heavily focused towards Indigenous issues.

Dr Johnson—I would have to take that question on notice. My recollection, to the best of my knowledge, is that in the science report there are mentions of the wild rivers legislation. The task force report itself does not contain any references to it, but that is a matter that you will have to take up with the task force or the department, not with the CSIRO.

Senator IAN MACDONALD—That is for certain. I have not read the big volume that you are now referring to and which I learnt about for the first time at estimates yesterday. We are ploughing through that now. Certainly there does not seem to be, in my recollection, any reference in the chapter summaries. Can I go on to the issue that Senator McGauran raised

regarding the *Australian* article on the Great Barrier Reef. I have had a look at the *Media Watch* issue and I have read Dr Poiner's letter. I might say that Dr Poiner's letter is very carefully couched. He is sort of saying, 'Well, it doesn't prove one thing, but by the same token it doesn't prove the other.'

Senator Carr—If you are going to quote from a letter, quote it properly. It makes it explicit, quite explicit, that AIMS's research has been ripped off. Do not play games here.

Senator IAN MACDONALD—I will get to that shortly, Senator. Dr Johnson, is it not a fact that there are coral reefs growing in waters around the world that are up to six degrees warmer than the Great Barrier Reef?

Dr Johnson—I am not an expert in coral reef biology. I would have to take that question on notice.

Senator PRATT—It is not that climate change is not real; it is just that you do not care.

CHAIR—Senator Macdonald, ignore it and continue.

Senator IAN MACDONALD—I will ignore it for the stupidity it was.

Senator PRATT—My apologies, Chair.

Senator IAN MACDONALD—You did give some commentary about the Barrier Reef and how warming will affect it. If you are able to give that, you will be able to say as well that coral reefs—

Dr Johnson—A coral reef is a living entity. Like any other living creature, it has evolved to occupy its space under a certain envelope of environmental conditions. I repeat the answer I gave earlier in the session that the oceans warming beyond the range within which the organisms that inhabit the reef have come to terms with and/or the oceans acidifying—and hence the pH of the oceans increases and undermines the fundamental scaffolding or architecture on which corals depend—are a significantly threatening process to the reef.

Senator IAN MACDONALD—As we have seen in the last two years, the reef can adapt. The climate and the sea change. The reef is a living organism that does adapt to different situations.

Dr Johnson—That is correct. The reef is a living organism. The question is: should the oceans warm or acidify at a pace faster than what the living organisms can adapt to then there is a material risk to the Barrier Reef. That is the question that the scientific community is looking at.

Senator IAN MACDONALD—That is all part of the study. There is no conclusion on those things as there is not in Dr Poiner's letter. Dr Poiner's letter, if I summarise it, says, yes, it could be a problem. But he is not definitive in saying that the Barrier Reef will be destroyed.

Senator Carr—What he says is:

It is over-generalisation to the point of unreality to extrapolate from one set of observations to what is going to happen to the GBR—

Great Barrier Reef—

in the long term.

He said:

It is unhelpful and disappointing to have important and well-founded marine research incorrectly used by the *Australian* in this way.

It does not seem to me to be equivocal.

Senator IAN MACDONALD—That is a commentary on the *Australian's* editorial. He is quite within his rights to talk on that. But, as for the actual factual reports in the *Australian* article, is there anything wrong with them? Did that team work there? Did it give those findings? Did it say the reefs in Central Queensland had shown no effects of global warming?

Senator Carr—All I ask you to do is read Dr Poiner's letter in full where he clearly indicates that the report that was published on 3 February was wrong. He says, 'This is not the case,' in direct reference to the observations made in that report about AIMS's research. Senator, you had the opportunity to call AIMS to this committee and question them directly. You chose not to do that.

Senator IAN MACDONALD—Minister, if you want to raise that, the reason we did not is that at the time we were required to do that I had no questions for AIMS. Very often I can find out myself as it is in the same town I am in. Had we known this was coming up, you can be assured they would have been the first to be called. We cannot argue about that.

Senator Carr—I will wait with interest for the next round of estimates.

Senator IAN MACDONALD—Not with as much interest as I will, I can assure you, Minister. Have I used my time, Madam Chair?

CHAIR—As I understand it, we have unlimited time.

Senator IAN MACDONALD—Can I indulge the committee by putting to the CSIRO the throwaway comment I made earlier in a completely different tack. Time is not going to permit me to enter further into these issues but this is the first of a long process, you can be assured, with the northern task force stuff and the Barrier Reef. It was reported to me that the CSIRO is closing down scientific research organisations in Cairns and moving the officer in charge of the Davies laboratory in Townsville to Brisbane and not replacing him. There is uncertainty about the CSIRO facility in the Atherton Tableland. Please tell me I am wrong on all three counts.

Dr Clark—Dr Johnson can give you all the detail on what is happening in that region.

Dr Johnson—I would not seek to be disrespectful to you, Senator, but can I perhaps clarify this for you. We currently have over 200 staff in Northern Australia including staff in Atherton, Townsville and Cairns. I can give you my assurance Atherton is not going anywhere. That is an important site for us. Townsville is a very important site for us. It is the home of our partnership with James Cook University. In a few months time, all being good, we will be launching the new Australian Tropical Science and Innovation Precinct in Townsville, which we are very proud of and looking forward to doing.

We have eight staff in Cairns. They comprise two cohorts: staff from CSIRO Sustainable Ecosystems and two staff from CSIRO Plant Industry associated with the herbarium. A number of the staff from CSIRO Sustainable Ecosystems are transferring out of Cairns for various personal and other reasons—there are a small number of staff retained in Cairns. As a matter of course, as we routinely review our operations around Northern Australia, we are considering the long-term future of Cairns. I can assure you no decision has been made and we are involving not only our staff but our stakeholders and partners in the region in those discussions.

With respect to the officer in charge in Townsville, you are correct: he is moving to Canberra—that is Iain Gordon—as a voluntary move. In fact it is a promotion. He has been appointed to lead our Biodiversity Theme in CSIRO—it is a \$20 million-plus effort to address the nation's biodiversity challenges. We are replacing him; an officer has been designated to replace him and he will be leading us into the future in Townsville, including the move to ATSIP this calendar year.

Senator IAN MACDONALD—That is good news, apart from Cairns. I am sure Jim Turnour will join me in making sure you are well petitioned, not to diminish in any way—

Dr Johnson—I can give you an assurance that we have not made a decision. I can also give you a secondary assurance that if a decision were to be made not to continue to have staff based physically in Cairns, those staff would still be undertaking research of importance to Northern Australia and would be based in Atherton or Townsville. So they would still be in North Queensland. But I stress that no decision has been made. This is a routine consideration that we would undertake at a small site like this.

Senator IAN MACDONALD—This is one instance when I would like the minister to actually exercise political influence over you and tell you that you must keep them in Cairns.

Senator HEFFERNAN—Dr Johnson, the original terms of reference of the body of which you were a member, appointed by me, in fact, were to come down the coast a lot more in the north-east catchment, which has 85,000 gigalitres of run-off?

Dr Johnson—Of that order, Senator.

Senator HEFFERNAN—It was to about Rockhampton. I was not aware that the department decided that that was a no-can-go zone. Can I ask the department what was the logic behind that?

Dr Johnson—You would have to ask in the Environment portfolio, not this portfolio, given that it was the Department of the Environment, Water, Heritage—

Senator HEFFERNAN—Is there someone the secretary can drag up? Have you got anyone here?

Senator Carr—From the environment department?

Senator HEFFERNAN—No, anyone who can answer the question as to what is the logic behind—I mean, the original terms of reference were for the north-east catchment to come down not the entire way but to about Rockhampton.

Dr Johnson—Senator, my recollection of the discussion was that that part of Australia had been studied extensively. As you know, there has been considerable investment in research and development on all of the east coast catchments, particularly those draining into the reef, and with the resources that the department and the task force had it would be better spent—

Senator HEFFERNAN—Hang on, on the resources of the department—we allocated \$30 million to the task force. There was a change of government and they withdrew \$29 million out of the budget.

Dr Johnson—That is a matter for the department, not CSIRO.

Senator HEFFERNAN—So there is a flaw there, for a start.

Mr Paterson—Can we just clarify, Senator: the department that is being referred to is not this department, the Department of Innovation, Industry, Science and Research. I do not have officers here who can respond to your question, because we had nothing to do with it. It is the department of the environment.

Senator HEFFERNAN—Thanks, very much. Taking the *Northern Australia land and water science review 2009* and any sensible group of scientists, when John Howard said to me, ‘What’s this about, Bill?’, I said it was about figuring out if the science was right as to the planet and if the science was right as it applied to Australia—what we are going to do and how we are going to have to reconfigure the way we have settled and do business in rural and regional Australia. That will be to say, ‘Where are we going to be in 50 to 80 to 100 years time and what is the plan to get there?’ Wouldn’t any sensible plan to get us there include all the opportunities related to water, including storage of the water, and should that not have been an overbearing pressure put on the government by CSIRO? If governments in their wisdom can be guided by the department to say, ‘We are not going to bring this study that far down the coast’ for whatever the reason—we will ask them later—is it not then a completely flawed document that says, ‘Where are we going to be in 50 to 80 years time?’ if it does not include all the capacity to store water?

CHAIR—Senator Heffernan, you are going back to giving a speech. We are waiting for the question.

Senator HEFFERNAN—Andrew is used to that.

CHAIR—Well, I am not.

Senator HEFFERNAN—Luckily I am not on this committee. Did you give thought to convergence, for instance, and the potential as to the convergence of the Margaret River and the Fitzroy River?

Dr Johnson—In response to what I think the question is and just stepping back, it goes to where I was with Senator Macdonald. I think you need to distinguish between the CSIRO’s role in delivering underpinning science for the task force and the task force’s role in synthesising and integrating that information. I draw your attention to page 7 of the science review, where we state very clearly what our role is, not to prescribe or proscribe particular options but to provide the best available underpinning science. With respect, I would argue that this is the first time in Australia’s history that all the available information across this top

third of the country has been pulled together in a single place. There are lots of gaps in the knowledge base, as you know.

Senator HEFFERNAN—I know all that.

Dr Johnson—Indeed, the task force has made specific recommendations to address those gaps. We have those in the science report and I draw your attention to chapters 5, 6, 8, 9, 10, 11 and 13, which talk about the significant economic development opportunities for the beef industry, irrigated agriculture, tourism, mining and the defence sector. I think it is incorrect to argue that—

Senator HEFFERNAN—From the CSIRO's point of view, wouldn't it be sensible at some point to study the various catchment opportunities in the north?

Dr Johnson—That is, I believe, the next phase in this process. As you know—

Senator HEFFERNAN—Thank you, and that—

Dr Johnson—I would like to—if I could, Chair—finish that because it is important to make sure it is complete.

CHAIR—Yes, indeed.

Dr Johnson—As we discussed at this hearing in October, the level of information across the north is rich in some parts and poor in others. There are gaps to be filled. We made the very best estimates we could with the available information and we clearly pointed out where the gaps were and the task force, in its wisdom, has responded to that by arguing that the governments of Australia need to invest in further work to do it. It will be that work that you refer to, work which will be done on a very fine scale to enable a much more detailed investigation of some of the economic development opportunities that you talk of. On the broad scale we have identified opportunities for expansion in the beef industry, expansion in irrigation and agriculture, expansion in mining. The detail around that will be determined based on more information and on the decisions that the private and public sectors make, not by the CSIRO.

CHAIR—We will go to Senator Pratt.

Senator HEFFERNAN—Hang on, I have not begun yet. Could I go to the CSIRO's knowledge of irrigation, the use of water and the efficient use of water and make some comparisons because the report talks about—

Dr Johnson—Maybe you could point me to where you are referring.

Senator HEFFERNAN—Unfortunately, it is in the report of which you were a committee member, the sustainable report.

Dr Johnson—Yes, that one.

Senator HEFFERNAN—You were a member of it.

Dr Johnson—I was, proudly.

Senator HEFFERNAN—On page 17 it says:

This, along with their social and environmental importance, makes virtually all water resources locally or regionally significant. The Science Review—

that is, your review—

indicates that water in the north is fully utilised supporting the existing range of uses.

Could you explain that to me? Can I just background it for a start before you do. It is against the background of new science technology for water efficiency in irrigation. Against that background we know that Carnarvon used 8½ gigs in 2006-07, for instance, to produce the same income as the Ord, which is a lazy, tired, inefficient system. They used 335 gigs to produce the same income, about \$70 million. They are 40 times less efficient.

Dr Johnson—I am aware of those issues.

Senator HEFFERNAN—Carnarvon is 20 times more efficient than the average across the Murray-Darling Basin. I will not burden you with the figures.

Dr Johnson—I think we need to distinguish between water yield and water allocation. The statement is saying, in answer to your question, that every millilitre and every megalitre of the water there at the moment has some use for some purpose—

Senator HEFFERNAN—I don't—

CHAIR—Senator Heffernan—

Dr Johnson—whether it is for the environment, for fishing or for agriculture. What you are talking about is an allocation issue. Should that water be allocated differently from its current usage? CSIRO has no commentary on that whatsoever. That is a matter for policy and for governments and the wider community.

Senator HEFFERNAN—This is a misleading document. The spokesman for this document, by the way, is a bloke called Stuart Blanch—you know, 'Let's have a sip of coffee and retire to the coast—

CHAIR—We are diverting.

Senator HEFFERNAN—Can I just say that it says in the document that there are approximately 40,000 hectares of land available across the whole of Northern Australia for irrigation from groundwater. Correct?

Dr Johnson—Correct.

Senator HEFFERNAN—How the hell can you make that estimation? One of the things that you can do—one of the tricks you have to do—is decide whether to take the work to the water and how you will store the water. Obviously, the most efficient way to store the water is underground. That means you can divert to recharge the aquifer. There are engineering opportunities to do that.

Dr Johnson—That is a complex question. Maybe I can try to give a simple answer. Firstly, you are right: it is an estimate. It is an estimate based on an assessment of the soil types of the region, the topography of the region, the rainfall of the region, river flows in the particular region and the capacity to capture those flows.

Senator HEFFERNAN—Can I take you to the forecast?

CHAIR—Senator Heffernan—

Dr Johnson—Senator, can I please answer your question. It is about a range of factors, including the suitability of various crops and industries as well. There are a range of factors used to determine it. So it is an estimate, and it is an estimate based on water usage expectations under current best practice. If there were changes in technology or changes in crop varieties or so on—

Senator HEFFERNAN—Hear, hear!

Dr Johnson—that figure might change.

Senator HEFFERNAN—We are figuring out where we are going to be in 80 years time.

CHAIR—Senator Heffernan—

Dr Johnson—Senator, that is an issue for the task force; it is not an issue for CSIRO.

CHAIR—Excuse me. Senator Heffernan, you have one more question. Senator Pratt has a question and then we will finish.

Senator HEFFERNAN—What is the hurry?

Dr Johnson—Chair, can I just make one other comment?

CHAIR—Yes.

Dr Johnson—With respect to the issue of storage of water: again, if you read the report, Senator, it clearly indicates that the opportunities for storage of groundwater—or the challenges for storing groundwater—are significant. Again, as you know, there are significant connections between both the groundwater resource and the rivers upon which life depends.

Senator HEFFERNAN—All right.

Dr Johnson—The possibilities for capturing and storing large volumes of water in the groundwater system are limited.

Senator HEFFERNAN—My point is—

CHAIR—Senator Heffernan, Dr Johnson is—

Senator HEFFERNAN—He is running out of my time!

CHAIR—No.

Senator HEFFERNAN—My point is that there are 10,000 gigs in the Argyle dam—

Senator PRATT—It is about questions, not points.

Senator HEFFERNAN—and 80 per cent of that is allocated to the power station, so they run the water out in the wet season and waste it. If you then give consideration to areas versus efficiency and you increase the efficiency by 40 times, that actually means you can increase the area you are—

Dr Johnson—It may not actually increase the area, Senator. If you increase the efficiency, it may well increase the productivity—

Senator HEFFERNAN—Can I go—

CHAIR—Senator Heffernan—

Dr Johnson—The total volume of agricultural production may well increase within the same unit land and water resource. But, again, our role here, Senator, as I keep stressing, is not to prescribe or proscribe solutions. Our role is to develop the tools, the methods and the data to support that and nothing else.

Senator HEFFERNAN—Yes, of course. But—

CHAIR—Senator Pratt?

Senator PRATT—Thank you very much.

Senator HEFFERNAN—Can you explain to me where the soil typing has been done?

CHAIR—Sorry—Dr Clark? Senator Heffernan, I think Dr Clark has something to say.

Senator HEFFERNAN—One more question?

CHAIR—No, Senator Heffernan. Dr Clark has something to say.

Dr Clark—Could senators allow our staff to answer the questions? They have the information and are absolutely happy to provide that.

CHAIR—Certainly. I think Senator Heffernan, as chair of the rural and regional affairs committee, has ample opportunity to discuss these issues. Senator Pratt?

Senator HEFFERNAN—I—

CHAIR—Senator Heffernan, you have had 15 minutes—that is, half of this session. Senator Pratt?

Senator PRATT—Thank you very much, Chair. In asking this question, I would like to acknowledge Dr Johnson's answers to Senator Colbeck's questions regarding the robust way in which the CSIRO examines climate change science. I note that the CSIRO asserts in its publications that greenhouse gas emissions from human activities are more than 90 per cent likely to have caused most of the global warming since the mid-20th century. My question goes to the fact that clearly bits of evidence come up that challenge certain parts of climate change science. That does appear to me to be something that climate change sceptics, who want to dismiss the whole scientific proposition of climate change, want to latch onto. Clearly, there has been a bit of a feeding frenzy around that in recent months. My question goes to the problem of scepticism when we try to convince people that we need to take action on climate change. I note that the CSIRO has an adaptation agenda and that, indeed, it has some researchers who are starting to look at the question of the kind of commitment we need to make to adaptation. I would like the CSIRO's comments on that problem.

Dr Johnson—Do you mean the problem of adaptation specifically, Senator? I am just trying to get to the root of your question.

Senator PRATT—The problem of scepticism, I suppose, impacting—

CHAIR—Sorry, Senator Pratt. There is a point of order.

Senator COLBECK—Perhaps I am wrong, but it appears Senator Pratt is making an inference that I was questioning the science.

Senator PRATT—No, no.

Senator COLBECK—I was certainly not questioning the science.

Senator PRATT—That was not my—

CHAIR—That is not a point of order.

Senator COLBECK—I was talking about the process of developing the models and how they responded to criticism.

Senator PRATT—Sorry, I—

Senator COLBECK—The science was nothing to do with my question.

Senator PRATT—Senator Colbeck, that was not my—

Senator McGAURAN—Some of the mistakes they have made—

Senator PRATT—That was not my inference.

Senator COLBECK—That is fine. I am just making the point.

Senator McGAURAN—Do not be embarrassed. At any point we can question the science. That is the whole point.

Senator PRATT—No, no.

Senator McGAURAN—We have shouted down—

Senator COLBECK—I am not embarrassed about anything. I was just making the point that my question was not about the science and I took the inference that it was.

Senator PRATT—No, no. I was grateful for Senator Colbeck's question.

Senator McGAURAN—I am dying to hear the answer to this question. I have heard the backdrop to it.

CHAIR—Yes. I am quite interested in the answer too.

Senator McGAURAN—It would be very interesting to see—

CHAIR—You are having a discussion among yourselves. Senator McGauran, Senator Colbeck, if we have finished: the answer.

Dr Clark—Senator, let me address your first question and Dr Johnson can be clear about what we are doing in the adaptations phase. There are some pretty clear facts that CSIRO has been at pains to report. The CO₂ levels are increasing. We are seeing sea levels rising. We are seeing temperatures increasing. The consequences at the local level can be debated and of course are more difficult.

Senator PRATT—Yes. I accept that.

Dr Clark—We have also been at absolute pains to be clear on what the uncertainties are so that we can have a good debate. There are gaps in our knowledge. Certainly our models are complex. They are based on the best science, the best physics, the best chemistry and the best modelling we can do, but projection of those models is complex and we need to be clear about that. There are uncertainties with possible feedback loops. Does the permafrost feed back? What is the capacity of the oceans? There are uncertainties of human behaviour—that is, growth models et cetera. So we have been very clear in all of our commentary and in the

science that we report about what we know, about discussing the consequences at local level and about the uncertainties. You asked the question about the work we are doing in adaptation, and I would ask Dr Johnson to summarise that.

Dr Johnson—Thank you. I would just endorse Dr Clark's comments and reaffirm the comments I made prior to the lunch suspension. Senator, irrespective of whether CO2 emissions were ceased immediately, there is still CO2 accumulating in the atmosphere that is effectively locked in. There is a necessity and an imperative to consider carefully what adaptation responses this country needs to invoke to respond to the carbon dioxide already locked into the atmosphere's carbon budget. The CSIRO is investing over \$40 million of its money, in partnership with others, in the National Innovation System, with industry, with community and with other government agencies in our Climate Adaptation National Research Flagship. That flagship is an Australia-wide initiative. Its focus is around trying to understand and predict vulnerabilities for this nation and what the possible adaptation responses might be, particularly for our primary industries, for our natural environment and for our people and our cities. I would stress to this committee that it has a very strong practical orientation. This is a flagship that is about solutions; it is not a flagship about describing problems alone. It is about how we go forward with positive trajectories that will position this country to better manage the risk that is associated with possible climate scenarios.

Senator PRATT—So my question—

CHAIR—I think, Senator Pratt, we might have to conclude there. We can take questions on notice, but we need to move on. We will need another meeting of the committee if we are to continue indefinitely with CSIRO.

Senator McGAURAN—Could we have—

Senator Carr—Madam Chair, is Senator McGauran a member of the committee?

Senator HEFFERNAN—Could I ask a question?

CHAIR—Senator Heffernan, no, you cannot ask any further questions!

Senator Heffernan interjecting—

CHAIR—If people want to continue questioning then we need to clarify how we are going to run this. I will call a private meeting for five minutes time.

Senator McGauran interjecting—

CHAIR—No, Senator McGauran; I will adjourn the committee right now! I do not want continued discussion unless we are resolving whether we—is that what you want?

Senator HEFFERNAN—Can I ask one more question?

CHAIR—No!

Senator HEFFERNAN—Just one more.

CHAIR—No. I will have a private meeting if that is what you—

Senator McGAURAN—Can I just ask—

CHAIR—No, Senator McGauran! I would like to thank the CSIRO—

Senator McGauran interjecting—

CHAIR—I beg your pardon, Senator McGauran? The death of the CSIRO?

Senator McGAURAN—I hope we are not witnessing the death of the CSIRO as a great icon in Australia.

CHAIR—I would like to thank the CSIRO for coming. I can assure the CSIRO that although they might be caught up in a vigorous toing and froing this afternoon it is the view of this committee in all of our investigations that the work of the CSIRO has great integrity and excellence in all of their activities, and we thank you.

Dr Clark—Thank you very much, and I can assure you that we are alive and well and very strong.

[2.51 pm]

Australian Research Council

CHAIR—Thank you for coming in. Professor Sheil, do you have an opening statement?

Prof. Sheil—Not an opening statement as such, but a point of clarification. We would like to note for the record a correction to one of our responses to question on notice SI-25. In our response we had indicated that the date of the final report was 31 January when in fact it should have been 31 March.

Senator COLBECK—I will ask questions to start with because I think Senator Bushby had some to follow up on. I asked this question earlier today of the Productivity Commission witnesses: are there any benchmarking or measurements of the contribution of research and development to productivity across the economy? Do you have any work that provides us with a measurement of that? I know that the R&D corporations in the ag sector do that. I have had some interaction with them and know that they—and it is not easy to measure, I understand that—do attempt to provide some benchmarking as to the results of their investment. I am just wondering if there is any information or documentation that you can point me to that would assist in that respect?

Prof. Sheil—It is not recent work that we would have within the ARC. The last study that was done was an Allen Consulting Group report that measured the impact of publicly funded research, but it is quite old. We do not have any recent—

Senator COLBECK—How far back would that go?

Prof. Sheil—I would have to get you the exact date and the exact citation on notice, but it predates my time at the ARC, so it is at least three years old.

Senator COLBECK—Are you aware of any other places where I could go? I have asked the Productivity Commission the question and they have taken it on notice, but do you know of any other locations where I might go to find some sense of that?

Prof. Sheil—There could be some work done in the department, but I do not know.

Senator COLBECK—Mr Paterson, can you help?

Senator Carr—We will have officers here later this afternoon. We can endeavour to respond to the question at that time.

Senator PRATT—Given the growing need for researchers in Australia and internationally to collaborate instead of compete with each other in their research endeavours, I wanted to ask the ARC about their approach to encouraging collaboration.

Prof. Sheil—Sure. We have a range of different schemes with selection criteria and incentives for collaboration. The most notable of those would be the Centres Of Excellence Scheme where we actively encourage collaboration and we know that the development of scale and focus pays enormous dividends. So that is one scheme. Last year we also introduced a range of measures to enhance international collaboration by ARC researchers. I could go through them in detail if you were interested. The sorts of things we did were to free up restrictions on expenditure to encourage international collaboration, to free up some restrictions on international students and so on.

Senator PRATT—To what extent is the need to collaborate of greater importance and emphasis in today's world?

Prof. Sheil—It depends on the nature of the discipline. But both in Australia and internationally there has been an enormous push and change in the way research is done to encourage, as I said, the development of scale and focus. It is one of our objectives; it is an objective of international funding agencies worldwide. It is a reality that is needed in many, many disciplines given the complexity of today's problems.

Senator PRATT—In July last year the Australian Research Council launched the \$50 million program for bionic eye research and opened applications. Can you give us an update on where that is at?

Prof. Sheil—The process is complete. Two successful teams have been awarded funding: a consortium led by the University of Melbourne was awarded \$42 million and a consortium led by Monash University was awarded \$8 million. It was announced on 15 December 2009.

Senator COLBECK—Is there a schedule or a website somewhere that would detail the different categories of research funding which you allocate as part of your process and that would give me the breakdowns by different research arms and categories?

Prof. Sheil—We have. All of our successful grants are published on the website and tabled in parliament.

Senator COLBECK—What is the cycle for that?

Prof. Sheil—Our main funding cycle is open now, it closes early next month and the grants are announced in late September, early October.

Senator COLBECK—So the information that is there now would be last September's round of announcements?

Prof. Sheil—That is right.

CHAIR—I thank the ARC for coming in.

[3.00 pm]

Office of the Chief Scientist

CHAIR—Welcome, Professor Sackett. Would you like to make an opening statement?

Prof. Sackett—I have no opening statement.

Senator HEFFERNAN—Would it be appropriate for me to ask you about BSE—mad cow disease?

Prof. Sackett—You can certainly ask a question.

Senator HEFFERNAN—I understand from evidence we have received in another place that the bacterium or whatever causes the human variant cannot be destroyed by sterilisation. In fact, they have a protocol to destroy the instruments that are used in any procedures on humans that have the disease. Could you explain to me where that leaves the abattoir worker who killed the cow that had the disease.

Prof. Sackett—I would have to take that on notice. Do you have a reference that you or your office could pass on to me as the source of your information? I would then be happy to get back to you.

Senator HEFFERNAN—So you personally are not aware of the sensitivity of what I am talking about.

Prof. Sackett—It is just that on any specific science matter I like to refer to the published literature before I prepare a response.

Senator HEFFERNAN—I refer you to a report done by a Professor Matthews for the department of health—two and a half weeks to put a report together that is going to influence the future of Australia's beef industry. One of the concerns I have got—

CHAIR—Thank you, Senator Heffernan, you have asked that question. Do you have any more.

Senator McGAURAN—it was reported that the British government's chief scientific adviser, John Beddington, said that the impact of global warming has been exaggerated by some scientists and that there is an urgent need for more honest disclosure of the uncertainty of predictions about the rate of climate change. It was reported that you utterly agreed with him. Is that correct?

Prof. Sackett—I am aware of the reports. I am not aware that Professor Beddington made that comment precisely, although I am aware that it has been reported that he has. My comment was that, of the direct quotes that the UK Chief Scientist had made, I shared some of his concerns.

Senator McGAURAN—Here is a direct quote:

I don't think it is healthy to dismiss proper scepticism. Science grows and improves in the light of criticism. There is a fundamental uncertainty about climate change prediction that can't be changed.

Prof. Sackett—I would agree with that statement, except for possibly the last part, where he says that the fundamental uncertainty cannot be changed. With further research, the fundamental uncertainty can be reduced.

Senator McGAURAN—Nevertheless, do you agree that much of the global warming science has been exaggerated, particularly of late, in regard to the IPCC's Himalayan glacier issue.

Prof. Sackett—No, I would not agree that much of the climate change science has been exaggerated. There is very clear evidence on the key points of climate change, those being that the globe is warming, it is warming at a fast rate and that, primarily, it is due to greenhouse gases that are emitted by humans as well as by deforestation. So on those points the science is clear. There are other points that need further study, and that includes precisely how fast the earth's system will change in response to these greenhouse gases. It includes the specificity of the local patterns that individual cities and areas will see. We need more work on precipitation, for example. So there are many things that still require further study. But the remark about the Himalayan glaciers in no way at all alters the evidence for climate change.

Senator McGAURAN—The issue of Himalayan glaciers was one of the icons and these icons are falling one after another. I do not know how much more you need to come to this table with more balance, but one—

Senator Carr—I really do you should refrain from that sort of abuse of the witness—

Senator McGAURAN—I am about to list the icons that have fallen over, even by the IPCC's own reckoning.

Senator Carr—Taking advice from you, Senator, on what is an icon that is falling over, as you put it, is I think a little much.

CHAIR—Have you finished your questions.

Senator McGAURAN—I had not finished the question before being interrupted by the minister. Do you then just accept this particular icon, the Himalayan glacier issue—I will not go through the details of it—but, in short, it is not melting.

Prof. Sackett—That is incorrect. It is melting.

Senator McGAURAN—You are not going to tell me you are going to go for the 300-year range, are you? It is not going to melt by 2035. The IPCC have issued an apology to that effect. Do you accept that part?

Prof. Sackett—I accept that a mistake has been made.

Senator McGAURAN—A big mistake.

Prof. Sackett—I believe a mistake has been made in referencing a piece of work that was not peer reviewed literature. That piece of work is one of thousands upon which the IPCC report rests. But I think we also need to understand that the IPCC is simply compiling scientific literature, and that literature has not changed.

Senator McGAURAN—It is not compiling it; it is driving it.

CHAIR—Senator McGauran, I allowed you—

Senator McGAURAN—That is wrong; it is driving the science and this information.

CHAIR—Senator McGauran, I allowed you to finish—

Senator McGAURAN—It is not a library; she is making out that it is a library.

CHAIR—Please allow Professor Sackett to finish her answer.

Prof. Sackett—The evidence upon which the statement that the globe is warming does not depend on the Himalayan glaciers melting or the rate at which it is melting.

Senator McGAURAN—It would not want to now.

Prof. Sackett—That is an impact of global warming, but the evidence that the globe is warming rests on measurements of temperature over the land and in the atmosphere and in the ocean, and that is quite clear that the heat content of the earth is going up, and this is what we refer to as global warming. That global warming drives complicated patterns in the climate.

Senator McGAURAN—The next icon the IPCC has relied upon is 40 per cent of the Amazon forest being wiped out, I guess, by 2035 under existing circumstances. It had no scientific backing or expertise to it at all. It was just the WWF—that is not the wrestling organisation. It was just their comment and their basis. So, do you now accept that 40 per cent of the Amazon forests being wiped out by 2035 has no scientific backing or expertise, because the IPCC does? Do you?

Prof. Sackett—I would have to investigate that question in more detail to give you a precise answer. But the important thing to realise is that projections going forward about how climate change will affect particular pieces of the earth are matters that require further study, but that is not the basis upon which we know the globe is warming.

Senator McGAURAN—All right, so you have ducked that one, now here is another icon that has fallen. It concerns the extremes of weather that was put up as yet another icon of scientific evidence of man-made climate change. We all understand natural climate change—how that is measured is another story. Again, that is an icon was fallen, because all that was relied on was some student's thesis. Do you accept that? Another backdown by the IPCC. Do you accept that that had shallow science, if it was science at all.

Prof. Sackett—Again, I would like to repeat that the evidence by which we know that the globe is warming rests on very basic physics—physics that has been tested in the laboratory for decades. The thing I am referring to here is the greenhouse gas effect. This is measured in the laboratory by physicists and chemists. We know the magnitude of that effect and we have measured its effect in the earth's system—in the atmosphere, on the land and in the oceans. And as our instruments have improved the uncertainty of those measurements has gone down. This has meant that the signal has become clearer and clearer with the passage of time.

Senator McGAURAN—Two more icons—the Murray River and sea levels—have fallen over. Do you now accept what the CSIRO now accepts: that the jury is out with regard to climate change affecting the water shortages and all the problems that come with the Murray-Darling Basin?

Prof. Sackett—I think that it is well known that there are a variety of factors that affect the Murray-Darling Basin and I am not aware—

Senator McGAURAN—But climate change is not one.

Prof. Sackett—that the CSIRO has ever said anything other than that.

Senator McGAURAN—I think you said that sea levels were rising when there is, I would say, more authoritative scientific understanding that it is not. This understanding is by the Swedish geologist and former president of a sea level commission—I am surprised there is one—Nils-Axel Morner. Do you know of his scientific pitch, that the sea levels are not rising?

Prof. Sackett—I do not know of his scientific pitch. If it has been in a peer reviewed article I would be pleased to take that on board. The evidence of which I am aware makes it abundantly clear that sea-level rise is happening. In fact, these measurements can be made quite precisely nowadays.

Senator PRATT—I know that you have said that one of your jobs as chief scientist is to ascertain when the knowledge that science provides is sufficiently certain to warrant action and that you believe in action on climate change based on the scientific evidence. Given that this is your view as Australia's Chief Scientist, do you have concerns about the impact of climate change scepticism on our willingness and capacity to adapt to climate change?

Senator EGGLESTON—That is a political question, chair

CHAIR—I think it is getting very close. I will allow Professor Sackett to answer if she chooses.

Senator EGGLESTON—There is nothing scientific about it at all.

Prof. Sackett—I have been on record as saying that scepticism is a normal part of the scientific process. Every good scientist is sceptical—that does not mean cynical—and subjects their own work to scepticism before submitting it to publication and then, through the scientific process, submits that work to even further scepticism. So scepticism in itself is part of the scientific process.

Senator PRATT—It is part of testing the issues; yes.

Prof. Sackett—My concern has been that there may be a confusion in many people's minds about the scientific evidence and the political debate. That political debate is part of a democracy. It needs to take place but it should not be confused, nor should it divide—as I fear it could—Australians on the evidence of climate change.

Senator EGGLESTON—You said that sea levels are rising, but wouldn't you agree that that has happened over the millions of years the earth has been in existence? There used to be a land bridge to Indonesia, for example, and now that is under the sea. There was a land bridge to Tasmania. There are many parts of Europe and other countries where you visit old ports which are now 12 miles inland. So the rise and fall of the ocean is simply a phenomenon which has happened over millions and millions of years. Would you agree with that?

Prof. Sackett—I would agree that the sea levels have gone up and down. This is not news to any scientist who studies the earth, I assure you. There are many reasons for this but what we are currently seeing, year by year, is a rise in the ocean, which is actually accelerating. The measurements show that it is accelerating and calculations show that it is accelerating at the rate that you would expect given that warm water—the water in the ocean is now warmer due to global warming—expands. That automatically will cause sea-level rise and that, together with the physics of the movement of the icesheets, explains the sea-level rise that we are currently seeing, which is accelerating.

Senator EGGLESTON—That may well be the case, but global warming and global cooling are also phenomena which have occurred over the centuries and millions of years. It may be that the sea is warming and it may be that the ice caps are melting, but that is nothing new in the history of the earth.

Prof. Sackett—This is one of the reasons why it takes scientists many years to work these things out. There are different reasons why these things happen. Indeed, it is the fundamentals of biology and chemistry and physics that we bring to bear to understand not what happens but why it happens. The great ice ages, for example, are predominantly caused by the Milankovitch cycles that have to do with the orbit of the earth around the sun. We know that through the dedicated work of hundreds of scientists over a long period of time. We also know that that is not occurring now. That is not the reason for what we see now.

Senator EGGLESTON—That is your opinion. There are many of us who have science backgrounds and biological backgrounds who do not agree with what you are saying. I think that you are taking a very closed minded approach to this.

Senator PRATT—Do you have questions, Senator Eggleston?

Senator EGGLESTON—Sun spots and variations in the earth's orbit do, in fact, influence the earth's climate. There is a very strong body of opinion, is there not, that says this is nothing new.

Prof. Sackett—I did not deny that it is nothing new. In fact, I said quite the opposite. I said that that would not surprise any scientist who had studied the earth. Any scientist who would study the earth would tell you that the earth has cooled and warmed before, but science is more than saying what has happened; it is trying to understand why. It is also a process whereby, if one has an opinion, one is obliged to put that opinion through the scientific process. As Chief Scientist for Australia, when I give advice, I do not rely on my own opinion; I rely on the weight of evidence that has gone through the scientific process.

CHAIR—I think we are at the end of—

Senator EGGLESTON—It is certainly a matter of controversy, with respect, Professor.

CHAIR—Thank you, Professor Sackett, for coming in this afternoon.

[3.18 pm]

Department of Innovation, Industry, Science and Research

CHAIR—Welcome. Minister or Mr Paterson, do you have an opening statement that you would like to make?

Mr Paterson—No, Chair.

CHAIR—We will go straight to questions.

Senator COLBECK—You might have to forgive me getting used to which area we are asking questions about.

Senator Carr—We will try our best to help.

Senator COLBECK—I will accept your guidance with respect to that. I hope I am interpreting things in the right areas. I have a number of standard departmental questions,

which I think, given the time and what we have been through so far this morning, I will put on notice. From what I am looking at here, effectively this area looks at some of the higher education support programs—

Senator Carr—In the research area.

Senator COLBECK—Research and development.

Senator Carr—We do not do the teaching programs; it is the research and post-graduate programs.

Senator COLBECK—So if I wanted to look at the R&D bill that you have floating around—it may go on for a while anyway.

Senator Carr—Yes.

Senator COLBECK—So some of the other programs—green car fund et cetera—will be later in the proceedings?

Mr Paterson—Senator, just to clarify, the separation between the two outcomes is essentially that our science and research activity is in outcome 2 and that is listed first. Then the remainder of the department is listed after the afternoon tea break at this stage. But, given the mix that has been made in the scheduling, the majority of officers are here, so we will endeavour to respond to the questions in a way—

Senator COLBECK—I will try not to jump around too much.

Mr Paterson—But the science and research activity deals with essentially the investments and programs that impact on the publicly funded research agencies, the higher education support for the research programs and the like, the infrastructure programs that are provided for our higher education institutions and our publicly funded research agencies, and the super science initiatives which were part of the budget. The remainder of the issues you will probably be dealing with after the afternoon tea break in relation to outcome 1.

Senator COLBECK—You had in your policy four-year fellowships valued at \$140,000 a year to 1,000 of Australia's top researchers. Can you give us a program for how many of those you have allocated so far and what is the cycle—

Senator Carr—Those are administered by the ARC and they have gone. Would you be happy to take that on notice and get a report on how that is going?

Senator COLBECK—That is fine. To go to the proposed modifications to the R&D tax concessions—

Senator Carr—That is an industry program. That is private sector R&D that comes later. Have you got any more public sector matters?

Senator COLBECK—Most of what I want to focus on is going to be industry based, with the priority to start with this. Have you got anything, Senator Eggleston, in respect of education elements—the universities, higher education?

ACTING CHAIR (Senator Eggleston)—What about centres of excellence—does this come in this area?

Senator Carr—They come under the ARC who have just gone. We will deal with the private sector R&D, but is there anything now on the public sector R&D?

Senator PRATT—Yes. I want to ask, because it has just been recently launched—this week, I believe—about the Inspiring Australia strategy. I know that there are a number of key findings in that report particularly drawing on positive things we need to build on. But I wondered what that report had identified in terms of, I suppose, key risks to our capacity to innovate into the future, particularly as related to education et cetera.

Prof. Durant—I was a member of the team that produced the *Inspiring Australia* report that was launched earlier this week. With respect to science, countries need a strong science base, institutions infrastructure, people to do the research—a supply chain of future scientists and technologists—and a good relationship between science and society.

The report recognised that although there were a lot of very good initiatives underway at present, there was still the potential to better create a national framework where we could get better coordination and more coherent action between the different players. The report recognised that science communication covers a very broad spectrum of activities, from briefing politicians right down to exciting youngsters in schools and communities. We have to unpick some of the threads and create strategies to improve the quality of activity in each of those areas. We need to better tell the story of the very good research that is going on in Australia not only to inspire Australians but also to make sure that Australia is seen abroad as a leading and innovative country.

Senator PRATT—Did the report point towards any of the risks that might undermine our capacity to have the technologically skilled workforce in these areas that we would so desire?

Prof. Durant—We did not directly look at the workforce planning, but we did recognise the general principle that a knowledge economy requires a good supply of creative thinkers. We have to impact with school students, teachers and families, to make sure we have young Australians coming forward who want to be engaged with science. We want young Australians who can study science and we want some Australians to go on to become scientists, engineers or mathematicians. There is clearly a risk to any society if you are not getting a good throughput of people who have the creative skills and who are able to think rationally about some of the issues, because we are approaching a time when we have many, many issues of science that require good solutions. So we need people who can be problem solvers.

Senator PRATT—The report makes it clear the importance of communicating and engaging with the wider community about sciences. Does the strategy outline the most desirable ways of doing that?

Prof. Durant—We recognise that there are many ways to interact on issues of science. The report did study good practice in many other countries on the ways that the public can interact with the scientific community or with the political. Science policies vary with different outcomes so there are many different techniques for engaging. These vary from simple engagement in an informal environment where scientists and members of the public can discuss issues to a more formal process that feeds into a policy discussion. For example, in Denmark they run consensus conferences on particular issues. They are set up deliberately on

the outcomes of those conferences, then feed into the parliament. There is a process set up from the outset where the outcomes move forward rather than just having a nice chat about a particular issue. The outcomes of the conference are deliberately fed into the policy-making process.

Senator PRATT—Thank you.

ACTING CHAIR—Can you tell us a little bit about what the department is doing with nanotechnology? Is there an appropriate officer here?

Senator Carr—Are we moving away from outcome 2?

ACTING CHAIR—I am not sure.

Senator Carr—Can we come back to the nanotechnology question under outcome 1? If we can clear up and finish outcome 2 then the officers who are here from outcome 2 can be free to undertake other activities and we can concentrate on outcome 1.

Senator COLBECK—I would like to go to what is described in your election policy document as a metrics based research quality assurance system which replaced the proposed quality research framework. I would be interested to know where that is at.

Senator Carr—Again, this is an ARC administered program. ERA is progressing very well and it is in the process of the final consultation with the sector as we move towards the coming year.

Senator COLBECK—Can you give me a sense of the cohort of the consultation.

Senator Carr—Just bear with me, I want to be sure I get it accurate.

Senator COLBECK—Sure.

Senator Carr—In the program, as I announced it in February 2008, the institutions have six months to prepare submissions to a set of guidelines which have now been put into operation.

Senator COLBECK—You are talking about tertiary educational institutions?

Senator Carr—These are all universities across Australia. It allows universities to comment on the administrative arrangements that the ARC has now put in place to evaluate research undertaken in two broad clusters: one in the humanities and one in the physical sciences. There has been a release of the journals listed for the ERA. I understand that went out on the website last night. Sorry, the officers from ARC have all gone. My understanding was that the journal articles were listed on the ARC website last night. That lists some 20,605 separate journals and they are all ranked according to the assessments that the ARC has undertaken.

Senator COLBECK—So we are still talking about, within the matrix, a ranking of research based on its publication in these ranked journals?

Senator Carr—Yes. There are a range of assessments used for the ranking that might be given to any particular research program by individual universities. Citations are one of those metrics.

Senator COLBECK—In the previous quality framework that you have decided to move away from, one of the concerns that came through some of the rural and regional universities, and also some of the research organisations, was that the publication requirements rather than the practical applications requirements were potentially a disadvantage to institutions or organisations taking research in those areas. I am curious to know how that particular concern has been managed as part of this process.

Senator Carr—There are a range of measures that are being undertaken to evaluate the research programs that are presented by individual institutions. The question of impact was one that was, as you say, the subject of considerable controversy in the last measures undertaken by the previous government, known as the RQF. The concern that was being raised in regard to the measurements of impact is that that was impossible to verify. These new arrangements, it is believed, will provide a much higher level of certainty about the quality of any research that is undertaken.

Senator COLBECK—So there is some recent information that was put on the website as late as last night?

Senator Carr—The information was put on the website last night. I can tell you that of the 20,000 journals that I have mentioned, the overwhelming number of them have been by agreement through the expert committee. There were some others that were always going to be subject to argument. I suggest that, where there are specific cases that you might have questions about, we can direct those to the ARC.

Senator COLBECK—So the details of the expert committee and those involved are all part of the document on the website?

Senator Carr—I believe so.

Senator COLBECK—Okay. It is an issue that I have had an ongoing interest in from a range of perspectives but particularly from an involvement with agricultural R&D over a period of time. The practical application, from my perspective, is certainly quite important. Are trade training centres in this batch?

Mr Paterson—No, education.

Senator COLBECK—So it forms part of your policy but it is being applied in the education portfolio?

Senator Carr—No, that is the Department of Education, Employment and Workplace Relations.

Mr Paterson—A different committee, as well as a different department.

Senator COLBECK—I just read it in your industry policy, that was all. If I am reading something into your policy that is dealt with in another portfolio area, that is fine. Having dealt with that, I think we will move on to the other outputs so we have got plenty of time to fight over matters on those.

CHAIR—As I understand it, Mr Paterson, if people want to come back to outcome 1 we can do both.

Mr Paterson—I think we have concluded all the questions in relation to outcome 2, which is the science and research outcome. Until Senator McGauran's observation, I thought we had concluded all questions in relation to outcome 2 and we were proceeding to outcome 1 for Senator Colbeck. If there are any remaining questions on outcome 2 we are happy to respond to them.

Senator EGGLESTON—Could I seek clarification. When I asked you about nanotechnology, you said that was in outcome 1, but in your report is in outcome 2.

Mr Paterson—You are asking for a general overview, Senator Eggleston, in relation to nanotechnology. The majority of the nanotechnology activity is undertaken for the department through outcome 1. If there is an explicit element in relation to outcome 2 that you want to address, I am happy to try and respond.

Senator Carr—The ARC does fund some nanotechnology—about \$80 million a year, or thereabouts.

Mr Paterson—But that will not be in outcome 2.

Senator Carr—Senator, we have officers here who will be able to deal with that with regard to other matters relating to the private sector R&D program.

Senator EGGLESTON—Thank you. It is a little hard to follow your report, if I may say so. The headings—

Mr Paterson—In fairness, Senator, you have correctly identified where that is identified in the report, so maybe I have confused you. I am sure that the author of that part of the report will step forward and respond to your question.

Senator EGGLESTON—It is a general question.

Senator Carr—In terms of the university and public research programs, does Senator McGauran have a question?

Senator McGAURAN—Yes, in relation to the Australian Stem Cell Centre.

Senator Carr—Again, that is an innovation division program, is it not, so we will take that in a moment.

CHAIR—Do I understand this correctly: you would prefer to finish outcome 2 and—

Senator Carr—Officers have other things to do. Senators have a great fascination about sitting around here all day, but there are a lot of public servants tied up here watching this. I would prefer to allow them to get on with other things, if senators have finished their questions.

CHAIR—Minister, what I might do is ask you to keep outcome 2 people here until it least four o'clock and then we will switch over entirely to outcome 1. That will cover anyone who has last-minute questions. Are we in a position to cover the nanotechnology question?

Mr Paterson—Yes, we are, Chair. The reason for the confusion is that the annual report was written on the old outcome structure and the PBS, which is what we are appearing here on, is based on the new outcome structure. That is the reason for the confusion between us. I am reflecting on the outcome structure that is reflected in the portfolio budget statement,

which is why we are here. The annual report was written for the year completed, which was on an earlier description of the outcomes, where we had three outcomes which have been crunched down to two outcomes in the current financial year. That is the reason for the confusion. Why don't we just endeavour to deal with the questions as they come.

CHAIR—In that case, we will go to Senator McGauran who has an outcome 2 question.

Mr Paterson—Sorry about the confusion.

Senator McGAURAN—Regarding the Australian Stem Cell Centre, is Professor Alan Trounson in any way still involved with this sort of research?

Mr Paterson—He is certainly still involved with stem cell research. He does not reside nor work in Australia. He is employed by an institute in California, in the United States, and he has been there for, on my recollection, at least a couple of years. He is no longer a participant with the Australian Stem Cell Centre, which is where he was, and he has not been a player in the Australian scene, if I can use that colloquial term, for a number of years.

Senator McGAURAN—What is the budget for the Australian Stem Cell Centre for this financial year and the next financial year?

Mr Paterson—When you ask 'What is the budget,' it is not an activity of this department. We partly fund, in conjunction with the Australian Research Council, a Stem Cell Centre of Excellence, which is independent of us but operates under a deed between the Stem Cell Centre and the Australian government, represented by this department and the ARC. We can possibly take you through a bit of the detail in relation to the grant—both its duration and the financial commitment that has been made.

Senator McGAURAN—The government grant to it.

Mr Paterson—Yes.

Senator McGAURAN—It says in your annual report that there will be \$100 million from 2002 to 2011. Is that still the amount that you are working around?

Mr Chesworth—Yes, that is correct. The funding profile continues until 30 June 2011. In relation to your previous question, the funding for this year and next year from this portfolio—DIISR—is \$5 million each year; and from the ARC, \$5.5 million.

Senator McGAURAN—Where does your \$5 million go? Does it go into a pool or is it directed?

Mr Chesworth—It goes directly to the Australian Stem Cell Centre, and the funding is paid on a quarterly basis against a range of milestones that are articulated in the deed of agreement that the government has with the centre.

Senator McGAURAN—So you do not tie your \$5 million?

Mr Chesworth—The payment of the funds is contingent upon the Australian Stem Cell Centre meeting the requirements of the deed of agreement.

Senator McGAURAN—There was a review done relatively recently; is that right?

Mr Chesworth—That is correct.

Senator McGAURAN—Is it true to say that all that they found was that it needed to publicise its works better? In every other way was it meeting its benchmarks or not?

Mr Chesworth—There have been a number of reviews conducted of the centre. They are usually conducted on about a biennial basis—every two years or so. The review identified areas where the centre was doing well and areas where there was room for improvement. Certainly in our annual report it did mention areas such as some issues of governance and public engagement and that sort of thing.

Senator McGAURAN—Is this committee able to obtain a copy of the last review undertaken?

Mr Chesworth—Could I take that on notice—the reason being that there are some commercial-in-confidence issues associated with it.

CHAIR—The officers from outcome 2 can go and we will move onto outcome 1.

[3.43 pm]

Senator COLBECK—Let's start with the tax laws amendment which reduces access to R&D funding to industry. The exposure draft of the legislation, as I understand it, was released on 18 December last year for public comment, and the period for submissions closed last Friday. Is that correct?

Mr Paterson—That is correct. You characterised it as a bill to restrict access and I think, in fairness—

Senator COLBECK—I did expect you to have a different opinion to mine but I think I have industry on my side at this stage of the proceedings.

Mr Patterson—That may or may not be the case, but this is about a fundamental transformation of government support arrangements in relation to research and development. It was a recommendation that came out of the review of the National Innovation System—a recommendation that was adopted by the government. A discussion paper was issued last year for public comment. There was a subsequent release of the exposure draft legislation, which you rightly indicated we put out in the latter part of last year and on which we sought comment. The period of public comment in relation to that closed last Friday. But, yes, we do have a slightly different perspective.

Senator Carr—Senator, I am more than happy to try to answer your questions directly, but I am strongly of the view that the changes that we are proposing are aimed at providing a very dramatic improvement in support for small- and medium-sized companies. This provides for, as I think the secretary has just indicated to you, the implementation of what was a very strong push through the innovation review to move away from the current arrangements and to provide a fairer, more transparent and stronger level of public support for a new group of applicants. That provides—

Senator COLBECK—I understand you have a different perspective of the world from me and I am more than happy to explore that as we go through. We will deal with the individual elements as we go.

Senator Carr—I just want it to be said, though, that this provides a doubling of support for many firms and an increase of one-third for many other firms. Yes, it is true there will be a toughening up on what are regarded as illegitimate, bogus claims against the taxpayer. This is a measure that we are now spending \$1.4 billion of public money on every year.

Senator COLBECK—I understand all that and I am happy to explore that as we go through. I would be more than happy for you to identify for the committee some of the bogus claims that you talk about. I am sure some of the industry players who have been involved and have criticised this would be happy to know that they have been getting what you term ‘bogus tax deductions’. Those are your words, not mine.

Senator Carr—I understand that, but the thing is, there are people who have made claims that under the current arrangement are open to serious question. Some of those matters are actually before the courts at the moment. It is natural that some of those persons that you are talking to, and I know we have spoken to them, are very, very keen to protect a vested position. We have an obligation to ensure that that \$1.4 billion of public money is spent wisely and that it actually increases our capacity in this country. What we want to try and do is to get a situation where more and more companies—and there are only about 7,000 companies participating in the scheme at the moment—

Senator COLBECK—There are 7,000 or 8,000—we are not making anything about that.

Senator Carr—We want a lot more people to participate in the scheme and to get that we have to change some attitudes. Instead of a very large corporation saying, ‘Here’s a great project; let’s do it’, making the decision to do it, sending down the arrangements to the taxation people in their office to clean it up and submitting a claim, we want people to use the R&D tax credit—the new one—as a motivator to actually improve their R&D effort. We are in the business of transforming the Australian economy and the Australian approach. We desperately need new inventions—new technologies—deployed to deal with the really big questions this country is trying to deal with, such as climate change and the ageing of the population. We desperately need to transform Australian industry—to modernise Australian industry. We are not going to do that if we take a business-as-usual approach. We are fair dinkum about this and we are going to put the bill into the parliament. We have consulted very, very widely—

Senator COLBECK—Over Christmas?

Senator Carr—No, no. Come on. Be fair.

Senator COLBECK—Do you think it is fair to drop an exposure draft on 18 December and to expect to have submissions come back over Christmas—in the time frame of the five or six weeks over Christmas when everybody is taking advantage of the summer season? I do not know whether or not you have had representations for an extension of that process. Perhaps Mr Patterson can advise me on that. I understand that the government has a perspective on this. I am trying to work my way through the issues that are involved and I am happy to deal with them one by one.

Senator Carr—Believe me, Senator, I want to go through the issues.

Senator COLBECK—Good.

Senator Carr—I am very keen to go through the issues, but you cannot repeat some of this rubbish that is coming out of vested interests.

Senator COLBECK—I have not repeated any of it yet.

Senator Carr—We put a consultation paper out on 18 September. Let's be clear about this.

Senator COLBECK—A consultation paper, Minister, is different from an exposure draft of a piece of legislation.

Senator Carr—Let's just get a few facts on the table. We put out a series of consultations in which 550 people took part from late September. We brought those back. Submissions for that closed on 26 October and 197 submissions were received. We held a whole series of other meetings after that and we provided people with an opportunity to comment on the exposure draft of the legislation.

Senator COLBECK—How many submissions have you had on the exposure draft of the legislation?

Mr Pettifer—The latest figure is 127 submissions on the exposure draft.

Senator Carr—It is my intention to put a bill to the parliament.

Senator COLBECK—I understand all that. I am not arguing with the fact that is your intention.

Senator Carr—It is my intention that this starts on 1 July. It is a very important date because that is then the operations in terms of the current year. We do not want to delay this for another year.

Senator COLBECK—I understand what the government's perspectives on this are. I am sure that we will deal with that as we work our way through. I want to work my way through some of the issues in relation to where it came from. Mr Paterson has given me an indication, as have you, that it comes out of a review that was conducted into R&D tax credits over a period of time and the recommendations that came out of the review. This looks suspiciously like a piece of legislation or a recommendation that came to us from one of the agencies back in 2001.

Senator Carr—What did the previous government do with it?

Senator COLBECK—We rejected it at the time, obviously. That is what happens. I just want to know whether this is a rehash of something that cropped up once before. Is that the case or not?

Senator Carr—My recollection of those events is that matters were pursued. I do not know where this bill will end up. I am not going to pretend to you that the process was concluded when we issued the draft. We expect genuine consultation. That is what I say to you, Senator—this is a genuine consultation. I do not know how you ran it. I am not going to comment on how you ran it in 2001, but this is a genuine consultation. We are in the business of finding out what people think about it. We want to see specific proposals, not a whole lot of stuff in general. I am very much open to receive specific proposals from people who have a great knowledge and expertise in this field, and that includes the Liberal Party, I might say. I will make that offer to you.

Mr Paterson—You asked a question about past considerations. This is not the first time the concept of a tax credit has been raised in Australia as an alternative approach to the R&D tax concession. The international standard for approaches in this area is to have a tax credit rather than the general concession that was made available previously. I do not want to debate long history but I think you will find if you reflect on history when the issue was raised before that the former government actually introduced a bill to move down this path that was not successful at the time.

Senator COLBECK—That could be quite incongruous, couldn't it? So the Labor Party may have knocked it back before?

Mr Paterson—No, I do not think it was that party, Senator. I think it was another group that might have been around at the time.

Senator COLBECK—They must have had some allies because they could not have done it on their own.

Mr Paterson—That is true. This is an approach that has been around for some time. It was the subject of the review of the National Innovation System. The recommendations were made to move down this path. The design of the credit that is being proposed at this time is not in the same form as past recommendations have been made. In the structure of the credit, this is the first time it has come forward in this way.

Senator COLBECK—I recognise that the payment amounts and thresholds have been changed, lifted in some areas and reduced in others, and on the basis of that the government is saying that this measure is revenue neutral.

Senator Carr—That is correct. We are committed to revenue neutrality on the bill. That does not mean a reduction.

Senator COLBECK—I understand you have got all these other high-level things that you are trying to deal with and you do not want to spend more money where you do not have to.

Senator Carr—The \$1.4 billion a year is the price tag we have got on this.

Senator COLBECK—I understand that. That brings me to the next point. I can understand that if you were lowering some payments, raising some others and changing the method of payment, that may very well have that effective of tax neutrality. The question that I have—and I think is the one that I read through a lot of the public comment that I have seen—is: when you then narrow the parameters, how does that maintain financial neutrality? You are on the public record as saying that you are narrowing the parameters. You have said you are toughening it up here today. Can you explain to me, then, how that maintains financial neutrality?

Senator Carr—What we have relied upon is the expert advice in terms of the modelling from the Treasury, and that is the only game there is in town in terms of modelling in this area.

Senator COLBECK—You reject any of the other financial modelling by any of the other institutions that have said that this—

Senator Carr—What has been put forward?

Senator COLBECK—KPMG, as I understand, have done some costing and say that it could reduce by 50 per cent.

Senator Carr—We would like to see these claims verified, but to my knowledge they have not been verified. There have been assertions. It is a legitimate argument about whether or not the measures that have been proposed are tough enough, too tough, or whatever—that is the nature of political process. But we have to rely upon the advice as provided to us by Treasury in regard to their modelling.

Senator COLBECK—I understand that; that is the same way it works when any government is in place. But that has been challenged from a number of forums. KPMG is one group that I am aware of, that has been quoted in a number of articles, that said that it could drop to 50 per cent. Others—I think Deloitte—have indicated that it could drop 50 to 80 per cent. What I am asking you, Minister, is to explain to me how you are saying, when you are placing such a significant restriction on the parameters, that it will be cost neutral. I think it is reasonable that we ask that question when you are placing such a restriction on the parameters.

Senator Carr—I appreciate the question and the spirit in which you ask the question. I asked the same question. I saw those quotes and I have asked the officers: do we have any verification from those people making that claim? No-one has been able to produce any evidence to support the assertions that are made by those accountants. They are entitled to a political view—and that is what it is. We have not seen any evidence to sustain their claim.

Senator COLBECK—I am not sure that it would necessarily be a political view because these accountants would be working for clients who are making the claims. They would be assessing eligibility against the criteria, as all good tax accountants would. So I would have thought they would have had some genuine empirical evidence on their books because they were actually doing the assessment of the claims. You have made one very important change in the parameters of this: changing an ‘or’ to an ‘and’, which brings two parameters into one. Do you have or does your agency have any indications of how many of the claimants that currently qualify for this grant, qualify for both of those parameters at once?

Senator Carr—I will let the officers respond.

Mr Weber—My understanding at the moment is the way in which the claims are processed by AusIndustry is that, when they receive them, if the client application covers across one bar, either innovation or high levels of technical risk, then the application proceeds forward, so thus they do not measure them against both bars at this point in time and never have done in the past.

Senator COLBECK—So you have no information and kept no records as to the number of applicants who would qualify for both? You assess; if they meet one of the hurdles it goes through; and you do not bother assessing any further.

Mr Weber—That is the way the assessments are treated.

Senator COLBECK—That is fine. I suppose that is a reasonable way to deal with it. Do you know—and I can ask this later of the tax office—if the tax office look at it in a broader sense than that?

Mr Weber—The registration data and the application of whether the activity is research and development as defined in the act is the responsibility of AusIndustry.

Senator COLBECK—So any data that does exist would exist in AusIndustry and not within the tax office?

Mr Peel—I will just qualify a little bit what has been said. The tax concession as it presently exists is a self-assessment scheme. So we rely on the information that people are putting forward and AusIndustry's job is to register people for the tax concession; we do not check every single application that comes in. We accept what people say to us. We then have a compliance regime in place where, together with the Australian Taxation Office, we look at a number of claims each year. To date, that represents only about five to eight per cent of all claims that are lodged for the tax concession. In those cases, of course, we apply the current law which says 'innovation or', not 'innovation and'. So we do not look at that. Because we only look at a small number, we have never looked across the whole gamut of the many thousands of people who register for the tax concession.

Senator Carr—No-one else has either. So the assertions that are made are—

Senator COLBECK—So you are saying that when a company goes to their accountant and asks, 'Do a qualify for this?', their accountant will not give them advice and say yes or no that they do or do not qualify?

Mr Peel—Could I just make another comment. You are quoting comments made by—

Senator COLBECK—I actually have not quoted anybody yet.

Mr Peel—You are asserting that these people are making the claim that, if it is 'and', a lot of people will be cut out from the tax concession.

Senator COLBECK—If it does not make any difference, why are you changing the law?

Mr Peel—The people who are making these claims of course have a vested interest in leaving the rules as they are, but I have been to public consultation sessions on the tax concession and I have heard consultants say that it will not make any difference to their clients because, whether it is an 'and' or an 'or', they will still qualify. So I think there is a difference in views out there as to exactly what difference the 'and' would make in relation to the tax concession.

Senator COLBECK—If it does not make any difference, why are you changing the law?

Mr Peel—We believe that—

Senator COLBECK—The minister has agreed both here today and in other comments that I have a copy of that he is tightening the parameters. Nobody is disputing that. I do not think anywhere in the argument have I heard what I have just heard now. It is quite conceivable that quite a number of people will qualify in both cases. There are 7,000 or 8,000, we have all agreed, who qualify for this. The assertion is that it will be cut in half. If there are still 3,500 to 4,000 who do qualify that is still quite a lot.

Senator Carr—You are quoting from the Peter Roberts article. I presume that is your source.

Senator COLBECK—No. I am quoting from your documentation.

Senator Carr—But that quote on the effect on these things was contained in an article published in the *Financial Review*. I saw those comments and, I repeat, I asked the department: is there was any evidence to sustain those claims? We do not know of any evidence to sustain those claims.

Senator COLBECK—That is fine.

Mr Pettifer—Perhaps I will make a couple of points. We have asked the people who are making those claims to give us the actual cases they think would be a problem under the current definition even in a stylised way so that we can test that against the draft legislation. We have not got the information yet.

Senator COLBECK—I understand.

Mr Pettifer—The second point is that the change to the definition is actually an important measure in terms of the integrity of the tax credit and focusing it on genuine R&D. The practice is consistent with the OECD Frascati Manual, and many other countries adopt an ‘and’ in looking at this particular issue.

Senator COLBECK—Let us come back to that straight after afternoon tea.

Proceedings suspended from 4.05 pm to 4.19 pm

CHAIR—The committee will resume and we will continue with Senator Colbeck on outcome 1.

Senator COLBECK—On the Frascati model, you have indicated that this definition forms part of the international process. The definition as per the Frascati manual, which I have been provided—regarded, as I think you were saying, the benchmark definition for R&D in the OECD—states:

Research and experimental development (R&D) comprise creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications.

It further qualifies this statement by expanding on the three activities covered by this definition: basic research, applied research and experimental development. It does not, as I understand it, reference the need for novelty, innovation and high levels of technical risk. Could you point me to where it does? It does talk about those in the context of defining R&D but the information that I have got is that it is a method for distinguishing between R&D related activities rather than as has been put to us.

Mr Weber—I have an excerpt from the Frascati manual which I will read to you.

Senator COLBECK—It must be a different one to the one I have just read to you.

Mr Weber—It is.

Senator Carr—There is a danger in relying on those notes. I did it for 10 years or so, and I can assure you that it is not always a reliable course of action.

Senator COLBECK—We have a long way to go yet, Minister, so we will see how we go.

Mr Weber—It says:

The basic criteria for distinguishing research and development (R&D) from related activities is the presence in R&D of an appreciable element of novelty and the resolution of scientific and/or technological uncertainty.

Senator COLBECK—Yes; I actually have that piece with me as well. The information I have is that the manual does not talk about these concepts in the context of defining R&D but instead it is a method for distinguishing between R&D and related activities. Related activities will not display ‘an appreciable element of novelty and the resolution of scientific and/or technological uncertainty’. Are we reading from a different document, or just reading less complete parts of the same document? We have the same documentation, but I think we are interpreting it in a different way and perhaps a different emphasis is being put on it for the different purposes of the argument.

From the examples that have been given to me—and we talk about global benchmarks—it does not appear to me that ‘and’ is the norm—not in the United States, the United Kingdom or the Asia-Pacific definitions or China, Japan, Singapore, Malaysia, Thailand or New Zealand. According to the information I have, ‘and’ is not the predominant terminology used as part of the way they apply this test. I suppose we could sit here arguing the pedantics of this all day. The government has a proposal on the table to say ‘and’. You have used the Frascati manual as an argument for it. I am using that plus other examples of other R&D proposals internationally to say it is the other way around. We could argue about that all day, but the bottom line is that the government’s proposal is for ‘and’. It is citing Frascati and we are saying there is a different perspective. I am just going to say that we disagree and let’s move on to something else. If you want to respond to those other international examples that is fine.

Mr Weber—Our reading of it would be that the United Kingdom, Ireland, France and the United States all use ‘and’.

Senator COLBECK—I will argue with you about a couple of them. I do not see the word ‘and’ in some of their definitions.

Senator Carr—Can the officers provide you with further material to support that?

Senator COLBECK—I will show you yours if you show me mine.

Senator Carr—It would be of benefit if we had the same body of information.

Senator COLBECK—Yes, that would be fine.

Senator Carr—The officers can provide you with the reasons for their assertion. Would that be of help?

Senator COLBECK—Yes. But it is an academic argument at the end of the day.

Senator Carr—It is going to be a very practical argument because we are going to be in the chamber on this issue very soon.

Senator COLBECK—It is an academic argument at the end of the day. There will be the argument that you will make with the countries that you quote, and we will make our argument with the countries that we quote. We will all go down that track. I want to go back to your comment, Minister—and I have probably got the term wrong—about dodgy claims or dubious claims, which you made in a moment of heat in our conversation earlier.

Senator Carr—A moment of peak, did you say?

Senator COLBECK—No, 'heat'. I am not into making accusations, Minister. You mentioned that there were cases in court.

Senator Carr—Yes.

Senator COLBECK—Can you indicate how many cases there are in court?

Mr Peel—I think there are about eight cases before the Administrative Appeals Tribunal.

Senator COLBECK—Eight cases out of 7,000 or 8,000 claims per year.

Senator Carr—Can you detail some of those matters, please.

Senator COLBECK—That would be eight claims in one year or eight claims over a number of years?

Mr Peel—As I explained earlier, AusIndustry does not look at all of the claims that are made for the tax concession every year. Currently, there are nearly 8,000 of those made each year. We have a compliance regime in place where we look at a small percentage, and we get claims referred to us as well by the Australian Taxation Office. So we look at those claims from the point of view of whether or not they are R&D according to the current definition of R&D for the tax concession. In some cases, we agree that the claims should be allowed and in other cases we believe that the claims should not have been allowed. If we do that, the tax claimants have various appeal rights. They go through a process of appealing through the Innovation Australia Board, then they can go to the Administrative Appeals Tribunal and then they can go to the Federal Court and so on. We have eight cases at the moment before the Administrative Appeals Tribunal, but you could not say that that is eight out of 8,000 because we do not look at the whole of the 8000; we look at only a very small percentage each year.

Senator COLBECK—You have just indicated to me that the tax office also make their own assessments.

Mr Peel—The tax office look at the expenditure side of the tax concession, whereas we look at the R&D side. In looking at the expenditure side of claims, they may come across issues that they believe should be looked at by the Innovation Australia Board, which looks at the R&D aspects of a claim. So they do refer claims to us from time to time.

Senator COLBECK—Over what time frame would those eight have arisen?

Dr Edwards—These are very protracted processes.

Senator COLBECK—I am just trying to get a sense of scale.

Dr Edwards—Yes, I will do that if I can. I think it is closer to 10—so take eight or 10. It is protracted because you have 10 months after the end of the financial year to register. It then may be another six months before we look at it. If you are picked up through one of our compliance activities or referred to us by the ATO, the assessment process can take six or eight months and then there is an appeal process. So those cases would represent a number of years going back. Some of them may even go back to 2000. It depends on the speed with which the company moves to exercise its appeal rights.

Senator COLBECK—I am just trying to get a sense of scale. The minister has made some comments—and people will judge those as they will—about whether or not they are legitimate claims. You have said that there are cases in court. We have stats saying that there are eight. I am trying to get a sense of scale. Can you tell me how many assessments you conduct each year?

Dr Edwards—Our first line of attack is to use some targeted risk reviews. In any one year, we would do 300, maybe 350, risk reviews. This year we are doing a little more than that: we are bumping it up to about 700. Those activities do not deny the claimant benefits; they say to the claimant, ‘We’ve had a look at this. We don’t see any risk. You should be fine. It doesn’t seem to us, without a full and rigorous analysis, to look like it would meet the definition.’ Companies usually respond in one of two ways. A number of companies will say, ‘Fine. We didn’t realise that,’ and they will modify their claim with the tax office. Some will say, ‘No. We think we’re right here.’ If as a result of that risk rating we rate those high, we go to formal statutory review under section 39L of the act. That is where Innovation Australia Board has the statutory power to deny. At the statutory level, we would only do around 25 firms a year. It is not a particularly high number. Our first step is risk rating and education. Then we go to statutory review in about 25 or 30 cases.

Senator COLBECK—How are those 300 to 350 selected?

Dr Edwards—There are various triggers. Sometimes we will target first-time registrants because it is a good education step for companies. We have survey data that says companies that get one of those risk ratings early on are more comfortable with the program. Other times we will target other issues that may be of interest or concern to us and we will use those as risk triggers. Risk triggers vary every year.

Mr Peel—With regard to the scale of the claims question you raised earlier, they can range from relatively small amounts to many hundreds of millions of dollars.

Senator COLBECK—Is the size of the claim a factor in doing a risk review?

Mr Peel—One of the risk reviews that we do, which Dr Edwards referred to, is what we call the top 30. We will have a look at the higher claimants as part of our risk assessment process as well.

Senator COLBECK—Do any of those fall within the eight cases that we are arguing about at the moment?

Mr Peel—There is one I am thinking of. It is not quite in the eight yet but it will probably be in the nine.

Senator COLBECK—I suppose that depends on the attitude of the company. Those eight are current cases. What about resolved cases?

Dr Edwards—I have to take that on notice. I do not have that data with me.

Senator COLBECK—Would that be a significant number or would most of the cases be ongoing?

Dr Edwards—My recollection is that, if you look back over the last few years, we have had fewer than we currently have. If you go back 10 years, we probably had a spike in activity about 10 years ago, but it is never a huge amount of claims. It is not abnormal.

Senator COLBECK—Is it reasonable to extrapolate the percentages? I would not have thought it necessarily was. We are talking about legitimate access to this concession as it currently stands. You are looking at, say, 350 per year, over a period of 10 years. You have eight or 20, so a couple per year out of 350.

Dr Edwards—I just do not have that data.

Senator COLBECK—If it is a not a legitimate claim and someone wants to pursue it, the right place for it to be pursued is by government. I am not arguing with that. I am interested to get a sense of the scale of what these allegedly illegitimate claims might be.

Dr Edwards—When we do these assessments, it is not a case of yes/no. Quite often these companies have multiple projects and there may be projects which, under statutory assessment, we think are fine.

Senator COLBECK—But if this element of the process is going to be used by the government as a reason to change the rules, surely there needs to be some justification for that as part of this current process that we are going through.

Dr Edwards—We do see some large challenging claims that challenge the program. It would be fair to say that—

Senator COLBECK—I am not the one that made the allegation; it was the minister who did that. I am just trying to interrogate the evidence that he has put before the committee this afternoon.

Dr Edwards—I guess the difficulty I have is that there are a number of privacy provisions around both the R&D act and the tax act and to talk in terms that would disclose any of that information becomes very difficult for us.

Senator COLBECK—I understand the issues that go to that. With respect to the representations there are a whole heap of vested interests and obviously there are some industry representatives that have put comments on the record about this. Heather Ridout from the Australian Industry Group said that this draft legislation would have dire consequences while the Minerals Council of Australia said that it introduces narrow and prescriptive rules that will limit eligible claims.

Then let's go to Mr Nixon Apple, whom I think you have some regard for. He is someone you have appointed to four boards over the last two years. He said that the government's plans will decimate R&D.

Senator Carr—I have asked him about that. He asserts that that comment was taken out of context.

Senator COLBECK—I am sure that he is free to deal with that. He said:

If this legislation goes ahead, this is the end of the Button revolution ...

I know that this government has started a few revolutions, or has attempted to over the last couple of years; it looks as if you are going to end one.

Senator Carr—There is another sentence there that is a real ripper.

Senator COLBECK—‘It is the end of the innovation revolution.’ Is that the sentence that you are talking about?

Senator Carr—And there is another one after that. He is quoted as making some colourful remarks but he tells me that it is not an accurate reflection of what he said to the journalist.

Senator COLBECK—What about the Information Industry Association who say that the bill would hobble the productivity enhancing potential of the \$43 billion National Broadband Network? What does Mr Conroy say about that?

Senator Carr—I got the general gist of what you say. I have read the article. I think the article is grossly inaccurate. The article fails to identify a whole range of matters, both from the individuals who have been quoted and also in relation to the questions that were put to me. So I can only presume that what people tell me is right about what they actually said to the journalist. In general terms what we have said to respondents to the consultations is, ‘We’re interested in your views. We’d like specific suggestions from you on how you think this legislation could be improved.’ We are open to that. I repeat again today that we would like to hear from you, too, Senator. We think that this is an extremely important reform. If people are asserting that the Treasury modelling is inaccurate then they should show us how. If they think this legislation can be improved they should show us where.

Senator COLBECK—Is there going to be an opportunity for those who are interested to assess the Treasury modelling?

Senator Carr—The Treasury modelling is a matter you have to deal with the Treasury on.

Senator COLBECK—I can ask you about it.

Senator Carr—I do not have the Treasuring modelling. What I do say to you, though, is that if people say there will be specific impacts they should show us where. They should show us the evidence. If people have a specific suggestion as to how this legislation could be improved we would like to hear from them.

Senator COLBECK—Let’s go to that then. Let’s have a look at the situation with respect to the IT sector, where they do not have the capacity under your proposals to claim concessions for software development for their in-house use and development of IT products that occur there. There is one specific example that you have asked for.

Senator Carr—Can we deal with that particular question?

Senator COLBECK—Sure.

Mr Pettifer—As the minister has said, it is exposure draft legislation. We are getting comments back. We are engaging with the industry around their comments and working through with them what their particular issues are and whether we might need to make some changes in that area so that the policy intent is reflected in the final legislation. That is part of the process that we are going through. The fact that they are raising these issues in relation to the exposure draft is a reasonable sort of thing—an expected thing, in a sense—as we try to fine-tune it to make sure we are giving effect to the policy intent that we have. We are talking

through with them the particular issues that they have raised and whether there are other ways to go about getting the outcome that we want.

Senator COLBECK—You say you are responding to the exposure draft, but were these issues raised during the discussions on the discussion paper?

Mr Pettifer—In developing the initial draft we took advice from a number of experts in the IT industry, and they were reflected in the initial cut of this. But the devil is often in the detail with these things—

Senator COLBECK—You can see industry is suspicious. They are always suspicious of government, regardless of the colour of it. If they put some suggestions forward during a discussion paper process and it is ignored and then appears in the exposure draft, they think, ‘They’re not listening to us and they’re not going to listen to us.’ So are we seeing smoke signals now of a softening of position?

Senator Carr—It is not a smoke signal. I have said quite explicitly that we are interested in specific suggestions from practitioners. Also, if people have complaints about the matter, we want to assess those. Some people will claim that we are stopping activities being eligible for the concessional arrangements when they are not currently eligible. There has been some confusion in the public presentation on these issues. There are clearly business expenses for the normal operations of business which will be maintained and are currently funded as such under the current arrangements. But they are being presented as if there is a restriction under these new arrangements, which is just not true. I come back to the point: we want to hear from the Liberal Party, we want to hear from the IT industry, we want to hear from anyone who says that these are the effects on their industries, but we want to see specifics. I would be—

Senator COLBECK—You have asked me for one. I have put one on the table and the officials have given me a response—

Senator Carr—We are saying that this is not a smoke signal; this is a direct invitation.

Senator COLBECK—and I am happy with that. The IT industry ask, I think quite legitimately, why they are treated differently from the mining and manufacturing sectors. I do not know if there is going to be a response to that as a flow on from the exposure draft but I am just making the point that this matter was, as I understand it, raised during the period of the discussion paper. It still appeared in the exposure draft, so the industry say: ‘Hang on, we have run this one up the flagpole once before. Is anybody listening?’ Perhaps they are; perhaps they are not.

Mr Paterson—There are a couple of elements that I would like to comment on if I can. When we have sought specific examples, the name of a least one of my officers has been circulated to a variety of companies by one of the accounting firms that you mentioned and we have had direct calls from individuals who claimed disadvantage. They have given us the facts, we have tested those facts and they are not disadvantaged. So to the extent that we have asked for examples that support some of these assertions and to the extent that they have been provided to us and we have been able to test the assertions made in individual circumstances, they have not stacked up. We continue to be open to receiving this stuff. Part of the commentary almost suggests that this expenditure is being not recognised or rejected when much of it is normal business expenditure that people will make appropriate tax claims on. It

is the question of the special concessional treatment under the R&D tax concession versus the beneficial treatment under the R&D tax credit.

Senator COLBECK—I was not aware that we were talking about anything else. I understand perfectly the differences in what you are talking about.

Mr Paterson—But I think that some of the language that is being used in the public commentary on this would almost assert that we are not only taking away the concessional treatment but also taking away deductibility almost for the whole of the expenditure. I think that it has coloured much of the—

Senator COLBECK—You must be getting a bit sensitive, Mr Paterson. I have not read that into the documentation that I have in front of me. It has been on the concern about this particular program and the narrowing of the parameters of it.

Mr Paterson—I think it stands behind some of the more extravagant claims that have been made in relation to impact, and, as I said, we have asked for specific examples. To the extent that those have been provided to us, in the majority of cases they have not stacked up. We continue to be open to receiving those examples where people claim a particular disadvantage. But, as the minister says, some of the material that is being asserted as being unfairly treated under the R&D tax credit is stuff that is being beneficially treated under the R&D tax credit but it is not beneficially treated under the R&D tax concession. So it is a bit of a moving feast, and some people who might benefit under the concession who might not get the same benefit under the credit will no doubt wish it were otherwise, and I think that also includes some of the public commentary.

Senator COLBECK—I understand that whenever you change legislation, particularly of this type, there are winners and losers, and the winners are happy and do not say anything and the losers are not happy and say a lot, and it becomes a matter of testing that. The minister has said, ‘Give us some definitive examples,’ and my understanding is that quite a few definitive examples have come in. In fact, Mr Paterson, you have indicated that that is the case and you have tested some of those.

Mr Paterson—Yes.

Senator COLBECK—What I am trying to do—

Senator Carr—But we are still interested. The point we are trying to make to you, Senator, is that we are genuine about this stuff. I am very keen to have this matter put to the parliament as a matter of urgency. If there are assertions made about the veracity of the claims that the government is making, we want that tested as well. Now, people have the opportunity to put to us specific changes and specific complaints. We want the opportunity to test those claims. We are talking about a very, very large sum of public money—

Senator COLBECK—And, potentially, if the arguments are correct, a very, very large saving for the government. That is what I am trying to test.

Senator Carr—Okay, and that is a fair point. But I make this observation to you: I am committed to revenue neutrality, not a cut. Revenue neutrality is what we are pursuing here. We are seeking to improve benefits for a significant number of companies. We are seeking to double the benefit for a whole group of companies and increase it by a third for another group

of companies, but within the budget envelope of \$1.4 billion per annum. That is the context in which we are operating.

Senator COLBECK—You and your officials have said to me that there is no-one in government that holds records of eligibility. You make an assessment, it passes one or the other—tick, through, next process. There is a pool of about 350 that are assessed each year, and you have scaled it up this year to about 700. So on what basis does the modelling demonstrate that this is cost neutral? We have already agreed that you have dropped some and you have lifted some others; there is a line in the middle. But then you have squeezed the parameters, and it is that squeeze that is being talked about in all the information that I have seen, and it does not matter whether it is industry representatives, union representatives, tax companies or individual companies. It appears at this stage of the proceedings that this is friendless. What I cannot understand—because it is not a capped program, it is not a grants program; it is a tax scheme—

Mr Paterson—It is an entitlement program—

Senator COLBECK—It is a tax program.

Mr Paterson—and it becomes an entitlement program—

Senator COLBECK—Yes, but it is still—

Mr Paterson—It is an entitlement program under a self-assessment arrangement, consistent with—

Senator COLBECK—But it is not capped in any way. The minister said at the outset that he would like to see an expansion of people who can access this. If you are tightening parameters, by virtue of that fact fewer people will qualify.

Senator Carr—No, no.

Senator COLBECK—Well, explain to me how that does not work. If you are tightening the parameters—

Senator Carr—Your assumption goes to the issue of the quantum of the claim. You can actually expand the number of participants. We are actually trying to—

Senator COLBECK—How do you expand the number of participants? So you are telling me that there are a whole heap of people out there who are currently not making claims that they are eligible for—

Senator Carr—I am saying to you there are whole lot of companies in the Australian economy that do not treat R&D expenditure as an important part of their everyday activities. We are trying to change that culture. We are trying to provide an incentive to small and medium sized companies to be innovative. This exercise is about providing that boost to the technologically advanced companies. We want to see companies actually transform themselves, and that is why we think the government should stand behind those companies. Now, the larger companies, it is true, will spend a very large sum of money. The question is: where can we put the resource most effectively?

Senator COLBECK—So by virtue of what process in this legislation are you going to change that behaviour?

Senator Carr—That is the nature of the arrangements we have proposed. We are saying that we want to ensure that there is a greater emphasis on what is argued to be genuine R&D.

Senator COLBECK—Okay. But by what process in this legislation will you encourage more companies than there currently are, given that you are narrowing the parameters? That would mean that under the current process fewer companies will be eligible. By what process within the legislation do you encourage more to then come on board?

Senator Carr—Could I just make this point, Senator. What we are trying to do is change the nature of the claims. That is the critical issue here.

Mr Weber—There is one point I would like to make. The fact is that, at the announcement at budget time, the access to foreign companies and companies that hold their IP offshore was extended under the new scheme. Therefore, it will actually widen the base in some respects whilst at the same time it will narrow it. Thus companies will come in that were not eligible and activities—

Senator COLBECK—So companies that hold their IP offshore will become eligible under this scheme?

Mr Weber—Yes.

Senator COLBECK—How many of those do you think there are?

Mr Paterson—We cannot answer that of the top of our heads here. That goes to the modelling exercise that is undertaken and that stands behind this. As the minister has indicated, the parameters under which we are operating are revenue neutral. We have to rely—

Senator COLBECK—I understand that, but—

Mr Paterson—We have to rely on the modelling that is undertaken by the Treasury. We have always had to rely on it. We had to rely on it under the R&D tax concession; we had to rely on the modelling undertaken by the Treasury in relation to the costing of the R&D tax concession and in the transition from the R&D tax concession to the R&D tax credit. We have to rely on the modelling undertaken inside Treasury to reach the conclusions that the government has on revenue neutrality at the \$1.4 billion a year, increasing the tax credit and a refundable tax credit for businesses—

Senator COLBECK—Surely we can access some of the numbers that come out of the modelling.

Mr Paterson—You can press Treasury to try and get the answers to that. They are back here tonight.

Senator COLBECK—When we went through the debate on alcopops, when we went through the debate on Medicare rebate levels, on each of those occasions we were given numbers of players coming in and out of the scheme as part of this discussion process. Surely that could be something that is put on the table. You must have some sense of how many new players are going to come into this scheme and how many are going to fall out. Industry are saying that about 50 per cent will fall out, but you have not put anything on the table to demonstrate. You have not given any numbers. You have said that some who hold their IP

offshore might come in, but you have no idea of how many there are. You demand of industry that they show you their verification, and some of them have—Mr Paterson indicated that—but you are not putting anything on the table.

Senator Carr—I think there has been quite extensive consultation. We know that the pharmaceutical sector and the biotech sector, and we are getting considerable support from software, in terms of many of the high-tech firms across a range of sectors, are all areas in which there are very positive comments coming back in terms of the consultation process.

Senator COLBECK—I do not think the software guys are all that keen, according to this article. Let's lay the parameters on the table as part of it.

Senator Carr—I take, for instance, Mr Tony Reed from the Games Development Association.

Senator COLBECK—The games development—

Senator Carr—Yes—the computer gaming area. That is an area where I think there is significant opportunity for expansion in this country. What they are saying is that this scheme will benefit the games development industry rather than hinder it. So, in terms of those studios, they will directly benefit from these arrangements. Perhaps officers have other comments on that. What we are saying is that there will be those who make public comment. You made the point that those who perceive a loss under this will make a lot of noise. I think you made a very accurate observation.

Senator COLBECK—We have both been around long enough to—

Senator Carr—Yes, exactly. So we know the game.

Senator COLBECK—I also know that you would be proactive enough to go round and organise a few people to come out and say, 'I've got a letter to wave to support the government.'

Senator Carr—I can assure you that we have not done that, but maybe I should have done a lot more of it. What I can say to you is that we are directly engaged with companies that have an interest in this matter.

Senator COLBECK—All I am asking you to do, Minister, is put some numbers on the table. How many companies that hold their IP offshore will become eligible for the scheme?

Mr Paterson—I have made to the point ready, Senator, that that is modelling that is undertaken by Treasury and we are obligated to rely on that modelling.

Senator COLBECK—So they do not even share it with you?

Mr Paterson—Correct.

Senator COLBECK—It is your program.

Mr Paterson—No, it is a tax program that we jointly administer with them—

Senator COLBECK—But the objective is to assist industry; it is all about—

Mr Paterson—The matter is taken forward by both Minister Carr and the Treasurer.

Senator COLBECK—So when the Department of Health and Ageing have an issue, the tax rebate for—

Mr Paterson—I cannot draw a comparison.

Senator COLBECK—They can give us numbers but your department cannot.

Mr Paterson—I cannot draw a comparison with others in relation to this issue. All I can say to you with absolute confidence is that we are obligated to rely on the modelling undertaken by Treasury in this area. We have been pressed on this issue by oppositions of various colours over time and have been caught in that dilemma throughout that period of time. Treasury are here tonight at nine o'clock. We cannot give you the detail of the modelling because we do not have it.

Senator COLBECK—But have you seen it?

Mr Paterson—What we do know is that the package of measures that is proposed has been assessed by the Treasury modelling to be revenue neutral, based on the significant changes that have been proposed.

Senator COLBECK—The problem is that we have no evidence of that.

Mr Paterson—Well, I am telling you that the advice that we have is based on the modelling from Treasury that this is a revenue neutral package.

Senator COLBECK—Treasury told us during the alcopops debate that there was going to be a certain amount of revenue that came out of that and that proved to be wrong. Nobody listened to the industry, who were much closer to the mark, and you have got the Australian Industry Group and some good mates of Senator Carr from the union movement saying that it is going to be bad. This is, in a broad sense, very friendless legislation in the form that it currently exists, and I am saying—

Mr Paterson—I don't think that is the case. You have made the point that often in the case of legislative change where significant additional benefits are likely to flow to people the potential new beneficiaries are widely dispersed and rarely loud. It is the critics who are loud. You have raised the issue in relation to the IT industry before. On 4 February in the *Financial Review*, which has been publishing some of the bits that you have referred to, there was an article there by a representative of SAP which, as you know, is one of the largest international IT and software companies, and they made positive comments and suggested that the R&D concession is important to SAP, which has two Australian research officers, but changes would not necessarily lead to a mass exodus of IT investors.

Senator COLBECK—So they are an international company who is going to come in here and take—

Mr Paterson—They are an international company that operates in Australia.

Senator COLBECK—That holds their IP offshore no doubt.

Mr Paterson—It is the international companies that hold their IP offshore that are denied access to the concession. There is clearly IP held here in SAP but they are saying from an IT perspective that not all of this is consistent with the assertions made in that earlier article. There are different views that are likely to be expressed and, as we have said on a number of

occasions, what we are trying to do on behalf of the government is to consult as widely as we can and to get access to the examples that may well test the assertions in the model that has been undertaken by Treasury. But, to the extent that they have provided to us examples that we can test in relation to eligibility under the R&D tax credit, they have not supported the critics.

Senator COLBECK—But you cannot give me any numbers. Have you seen the modelling?

Mr Paterson—I have not seen the modelling. We have not seen the modelling.

Senator COLBECK—So where does this whole policy derive from? Does it derive out of this department or does it derive out of the tax—

Mr Paterson—I have said already that this is legislation that will need to be brought forward by both the Treasurer and Mr Carr.

Senator COLBECK—No, that is a different answer. I want to know where the concept for this process derives from.

Mr Paterson—The concept for this measure came forward from this minister and this portfolio. However, because it is tax legislation it must come forward in conjunction with the Treasury. Nothing has changed in that regard. That was the same under previous arrangements.

Senator COLBECK—There is no argument there.

Mr Paterson—So it has to come forward with both ministers. It is tax legislation, therefore the Treasurer and the Treasury have an active interest and they do the modelling.

Senator COLBECK—But you have not seen it?

Mr Paterson—We have not seen it. We have to rely on the advice that is provided to us by the Treasury.

Senator COLBECK—Nobody else has seen it and nobody has the opportunity to test it.

Senator Carr—All I can say to you is that this is exactly the same arrangement. When I sat there when we were in opposition asking the same questions I got the same answers, and if I recall rightly, from Mr Paterson. It is exactly the same arrangement.

Senator COLBECK—That is alright. I do not think I am showing the level of frustration that you used to show.

Senator Carr—That is probably true but then you were in government and you know the game as well as I do. I understand the situation. We have put forward positions in good faith. We are looking for the advice from the participants in the industry. We want to see their specific proposals. We want to test them.

Senator COLBECK—We have heard that. But this is a proposal that is derived out of your department out of a review that your department conducted. It has been modelled by Treasury. You are saying to me that you have not seen the modelling that Treasury has done so that you can in fact test it. When you come here to have to answer these questions, you cannot give me one single number of how this provides a broader base.

Senator Carr—All I can suggest you do is take it up with the Treasury.

Senator COLBECK—As you have said, they are coming later and we will have a conversation too. The only single element that you can place on the table for me is that it allows companies who hold IP offshore to become eligible. That is the only the way which you have explained to me so far that the parameters are expanded. You have changed the financial numbers up and down. You have said that and we agreed on that very early in the piece. You have squeezed the parameters and you are on the public record as saying that you are narrowing the parameters. You have said that here tonight and you have said that previously. I have asked you to explain to me how the base grows because all of the comment that I have seen publicly so far indicates that it will reduce it by between 50 and 80. Let us leave 80 out of it and say that it is half, but there is nothing else on the record so far that indicates the other way.

Mr Paterson—There are other measures. The base grows in this quite substantially, particularly for the small business sector. The R&D refundable tax credit available for businesses with a turnover of up to \$20 million—a tax credit independent of the company tax rate and independent of whether companies are in a tax positive or tax negative position—means that there are substantial opportunities to increase the base of companies that will get access to that additional tax credit.

Senator COLBECK—But I asked you earlier how this would change behaviour and the only thing that I was given in response to that was companies who hold IP offshore.

Mr Paterson—That was an example of the changes.

Senator COLBECK—Well, give us some examples.

Mr Paterson—I just have you an example. I give you the example and then you say, ‘But give me an example’. I have just given you a fundamental transformational change in providing a refundable tax credit for companies with a turnover of up to \$20 million. And you are saying, ‘But give me an example’. I have.

Senator COLBECK—And you think that that is going to make a lot more people reconsider their attitude to R&D?

Mr Paterson—Without question.

Mr Pettifer—It is a much more attractive incentive, Senator.

Senator COLBECK—Okay. I think I will leave that particular matter there for the moment and just go onto some other issues. We will have a chat to the tax office later in the night to see if they can give us some numbers. I am sure you will get the opportunity to come back and talk to a Senate committee at some stage of proceedings as part of the process, too—not that I am pre-empting what the Senate might do.

Senator Carr—I expect there will be a Senate committee. The operational date for this legislation is known and we will be asking the parliament to give this urgent consideration. There will be a legislative committee, I expect. Maybe I am wrong; maybe the opposition wishes to have the matter debated immediately and proceed more quickly with the legislation.

Senator COLBECK—I think you are drawing a long bow now.

Senator Carr—I think so, yes.

Senator PRATT—I would like to ask how the government has responded to the specific problem of the global recession—choking off capital to young technology enterprises and companies. I note, for example, that the Yuuwa Capital Fund was set up in Western Australia. I would like a bit of detail about how that fund operates.

Mr Pettifer—There are a range of initiatives that the government has taken in this area. Last year the government introduced the Innovation Investment Follow-on Fund, which was aimed at providing additional support for venture capital to enable companies that were operating in that space to sustain the investments that they had already made. That is one example. The government has also established Commercialisation Australia as a major new initiative to help support the commercialisation of Australian ideas—another key measure in this space. They are two key things that I would mention.

Senator Carr—Senator, we have increased support for public sector R&D by about 25 per cent in terms of Powering Ideas—our 10-year innovation agenda, which was published in the white paper in the May budget last year. We have also increased support for business enterprise innovation by 25 per cent—\$1.32 billion in the last budget. But our support goes beyond just the dollars; there has been a massive expansion in the activities of the portfolio in terms of coordination with the states with a range of activities. We have also sought through our macroeconomic policies and the stimulus measures to provide assistance to a range of industries, especially through the investment allowance. There has also been a range of other assistance that the government has provided. As a consequence, this economy is much, much stronger than it otherwise might have been—in fact, it is arguably one of the strongest in the world.

In terms of specific measures in Power Ideas, we have already discussed the R&D tax credit. We have \$1.1 billion in the Super Science Initiative, \$196 million for Commercialisation Australia, \$38.2 million for the National Enabling Technology Strategy, and some \$64 million in the Innovation Investment Follow-on Fund. We have a range of support for the TCF sector and a very significant expansion in terms of our activities within the automotive industry. We are also providing support for manufacturing. I could go on at some length about the range of activities. I think it is only fair to say, though, that this government, working in partnership with industry, has been able to sustain a level of economic activity that has meant that there are hundreds of thousands of Australian working families in work and maintaining a level of prosperity that they otherwise would not have been able to do if the government had not taken the action to deal with the global financial crisis.

Senator PRATT—I certainly agree with that. In that context, I want to specifically ask about the Innovation Investment Fund, which takes quite an innovative approach to addressing the problem that you have outlined—which clearly has been addressed in a myriad of ways. It appears that you have got capital funds that have drawn in funds from both the Commonwealth and from the private sector. Specifically, I understand that there is such a fund that has been allocated to Western Australia.

Mr Peel—The innovation fund in Western Australia, Yuuwa Capital—which I think you mentioned earlier—the Western Australian fund manager, was a successful applicant under the Innovation Investment Fund. The fund provides government support for venture capital fund managers to invest in small companies. Yuuwa Capital was provided with \$20 million of government funding. It has also raised \$20 million of private-sector capital as well. It was licensed under the fund in November last year. That was a recent development.

Senator PRATT—Can I ask how such funds work in terms of investing in small companies, and in turn, because it is both government and private investment, how that equity within those firms is managed in terms of potential future returns?

Mr Peel—The fund is licensed by the government under the Innovation Investment Fund program. The government makes a contribution, in this case \$20 million, but the fund is then free, subject to certain parameters such as the size of the company that I have mentioned, to make its own investment decisions. The government wants to encourage not just investment in small companies but also the development of the venture capital industry. So, while the government takes a return from those successful investments, it is quite a modest return—about 10 per cent, I think. So it is incentivising people to invest in small companies and giving them the benefit of the upside of the profits.

Senator PRATT—It would appear that that kind of investment is particularly important at this time, when in fact there are still significant constraints on access to global capital?

Mr Peel—It is and, as the minister mentioned earlier, the government introduced the Innovation Investment Follow-on Fund to support existing fund managers that the government had supported to make further investments in companies during the global financial crisis when access to capital has been hard to come by.

CHAIR—There has been some discussion about the Commercialisation Institute, and there were some discussions in previous estimates about whether that was refocused, what that was going to do. Can you say how it is operating now and what are the main priorities for the institute; what it is working on?

Mr Pettifer—Commercialisation Australia was set up to be a new approach to commercialising Australian research. It has a budget of \$196 million over the first four years of its life, and then \$82 million thereafter. The minister has recently announced the appointment of a board. Commercialisation Australia is open for business. I think it opened for business on 4 January, so it is accepting applications into the program. We are in the process of appointing a chief executive for Commercialisation Australia. What it is, I think, is a new and flexible approach to providing the suite of activities that are important in the successful commercialisation of an idea, from providing support for skills and knowledge development in the early stages through to early stage commercialisation support. It is a flexible instrument to help that particular objective. So it is on track. We have a good pipeline of applications and we are working through those. We expect the board to have its first meeting in March.

CHAIR—And it is after that first meeting in March that some applicants will start to be accepted?

Mr Pettifer—Yes. There is a process going on at the moment where there have been pre-application documents prepared and the ones of those that look good will be worked through into full applications. The process is under way.

Senator BUSHBY—So it is not quite but almost fully up and running—it has not actually had a board meeting, it is not actually considering applications yet, but you are basically almost there?

Mr Pettifer—It is functioning—it is open for business; applications are coming in.

Senator BUSHBY—Applications are coming in? I notice on the website that you are inviting them on a continuing basis, and the board was announced yesterday, I think?

Mr Pettifer—On the pre-applications that I mentioned, there have been more than 260 received to date. Not all those will result in full-blown applications, but quite a lot will.

Senator BUSHBY—If they are applications but not full-blown applications, what are they?

Mr Pettifer—The process involves going through a sort of checklist to work out whether or not the applicant meets the basic requirements.

Senator BUSHBY—A sort of screening process for the benefit of the applicants?

Mr Pettifer—Exactly.

Senator BUSHBY—So that they do not have to go through the full process?

Mr Pettifer—Yes.

Senator BUSHBY—Once the board starts meeting and starts looking at applications, things are running properly and people out there are actually taking advantage of the program, how, when and through what tools is the government planning to measure the activity, throughput, performance and success of Commercialisation Australia? How will the government ensure that Commercialisation Australia's performance can be compared and assessed properly?

Mr Pettifer—One of the key early things for the board to focus on is the key performance indicators.

Senator BUSHBY—Have the performance criteria for the future assessment of the success of the program not yet been developed?

Mr Pettifer—That is right. There has been some work done on what those performance indicators will look like, but it will be important to establish some good baseline data so that we can measure very objectively the impact that Commercialisation Australia has actually had.

Senator BUSHBY—Presumably they might include metrics that relate to increased employment, enterprise viability and expansions, economic growth, improved export opportunities et cetera as may be relevant to the particular applicant?

Mr Pettifer—Precisely.

Senator BUSHBY—I will move off that and onto Enterprise Connect. Have any changes being made to the governance of the Enterprise Connect program since its initial introduction by the Howard government up to its operations today?

Senator Carr—It was not introduced by the Howard government. Enterprise Connect is one of our programs.

Senator BUSHBY—One of yours? The notes that I have been—

Senator Carr—Perhaps we could get that sorted and go on.

Senator BUSHBY—I will withdraw that part of that question then. Have any changes been made to the governance of the program since it was introduced?

Mrs Zielke—There have recently been some new appointments made in relation to the Enterprise Connect advisory bodies. As the minister said, Enterprise Connect was actually formally launched in May 2008 following an election commitment in relation the creation of Enterprise Connect.

Senator BUSHBY—How many staff are currently employed under the program and how are they distributed between the various innovation centres and national staff and program management, supervision and support?

Mrs Zielke—As of 31 January there were 119 across the Enterprise Connect program. They are located across Canberra and the 12 centres around Australia.

Senator BUSHBY—Can you give me a breakdown of where they are located?

Mrs Zielke—I can. Would you like me to run through that now?

Senator BUSHBY—If you have with you now it would save putting it on notice.

Mrs Zielke—In the Defence centre we have eight staff; in the innovative regions centre we have 13.2 staff—these figures will sound unusual.

Senator BUSHBY—No, that is all right—FTE staff.

Mrs Zielke—In the creative industry centre we have 9.7 staff; at the WA manufacturing centre we have five; at the Victorian manufacturing centre we have 7.7; at the Tasmanian manufacturing centre we have six; at the South Australian manufacturing centre we have 5.7; Queensland has three; the New South Wales manufacturing centre has 4.3; the remote centre has 5.5; mining technology has seven; clean energy has seven; and the balance represents part of the Canberra based team or teams located in other places that report to the Canberra office.

Senator BUSHBY—They would be supervision, support and other administration type—

Mrs Zielke—Program management functions, marketing and those sorts of things, yes.

Senator BUSHBY—What proportion of staff are on-the-ground business advisers, and to which innovation centres are they attached?

Mrs Zielke—I do not have the breakdown of the business advisers at the moment, but we have 83 across the network.

Senator BUSHBY—Are you able to take it on notice?

Mrs Zielke—I can, yes.

Senator BUSHBY—In doing so, can you also look at what percentage of on-the-ground business advisers are directly employed by the department or through the program and what percentage are engaged via community based enterprise organisations?

Mrs Zielke—Partner organisations are 40 of our business advisers, and the balance, 43, are located within our centres.

Senator BUSHBY—So when you provide the information on notice, can you show that in terms of the centres themselves?

Mrs Zielke—The organisations?

Senator BUSHBY—And how many in each of them, yes.

Mrs Zielke—Righto.

Senator BUSHBY—How are companies selected to participate in and be assisted by the Enterprise Connect program?

Mrs Zielke—There are a variety of services that Enterprise Connect provides, and there are eligibility criteria in relation to those various services.

Senator BUSHBY—And they are all published?

Mrs Zielke—They are published on the website and available through each of the centres as well. Largely, though, we are working with companies with a turnover above \$2 million and below \$100 million that are working in the manufacturing or services area supporting manufacturing.

Senator BUSHBY—So that establishes eligibility. What about actual selection, when you have competitive applications?

Mrs Zielke—Enterprise Connect is largely an entitlement based program, so, in relation to receipt of a business review, which is our core service, if you meet the eligibility criteria for the program then you are eligible to receive a business review.

Senator BUSHBY—That would be subject to overall budget availability in the longer term, wouldn't it?

Mrs Zielke—In the longer term, potentially, yes. But, at the moment, the level of business reviews that we are targeting per year is over 1,000, and we are progressing quite well against that. There is then a tailored advisory service grant that companies can apply for if they would like to use that grant to help them implement the recommendations that are identified as a result of going through the business review process.

Senator BUSHBY—Are you able to provide a breakdown of the business type, size of turnover, employee numbers et cetera of the successful businesses under the program?

Mrs Zielke—Certainly.

Senator BUSHBY—If you could do that then I would like business type, size by turnover, employee numbers, years of operation, sector, innovation centre of interest, location, target market and the key focus of the business advisory service or advice.

Mrs Zielke—I think we can take most of those on notice; there might be some of those that we are not be able to respond to. But, just as a general measure, around 70 per cent of the

companies that we are working with have a turnover of between \$2 million and \$5 million. So that just gives you an indication of the size of firms that we are working with. I will take the others on notice.

Senator BUSHBY—So 70 per cent in terms of actual numbers of businesses?

Mrs Zielke—Of business reviews that we are undertaking.

Senator BUSHBY—A final question on this program: how, when, and through what tools is the government measuring the activity, contact, throughput, performance and success of the Enterprise Connect program generally, and the various innovation centres individually? In answering, can you get down to the detail of the metrics that are being applied to establish the outcomes achieved as a result of the program as it relates to increased employment, enterprise viability and expansions, economic growth and improved export opportunities?

Mrs Zielke—At the moment, we are actually undertaking surveys in relation to the companies that we are working with, to make sure that we have solid baseline data in relation to the companies that we are working with. Then, subsequently, we have a process whereby we will continue to survey those companies to see how they are progressing. We are also using a set of companies that are non-Enterprise Connect customers as a group against which to compare our group of companies, to test how our group of companies are going.

Senator BUSHBY—So it could be the placebo effect, in a way?

Mrs Zielke—Yes.

Senator BUSHBY—In terms of your current survey, would you not have collected that information when the businesses applied in the first place?

Mrs Zielke—The record keeping in relation to the way in which they apply is that, if they meet the eligibility criteria, we collect that data. A full set of data in relation to measuring how they are improving is the subject of the survey. So it is a different group. Yes, it builds on some of the eligibility criteria, but the eligibility criteria are not a complete baseline set.

Senator BUSHBY—So what you are saying is that you are currently surveying the successful businesses in the program so that you can get a baseline to compare their success in future but that you did not do that when they first were admitted to the program?

Mrs Zielke—No, that is correct.

Senator BUSHBY—So you have realised a fault in the program, basically—that you do not have enough information or did not initially set it up with enough information to be able to properly assess the success of the program?

Mr Paterson—I would not suggest that it was a fault. I think that, clearly, we were very focused on the implementation of the initiative and on starting the business reviews subject to the eligibility criteria. As you bed down these sorts of programs you make sure that you have all the information you need and can focus some attention on the evaluation. The very early part was a focus on getting the thing established, organising leases and making sure that we had the innovation centres established, we had appropriate governance arrangements in place and we had engaged the appropriate business advisers who could undertake the reviews and then have the tailored services as well. So it is not a fault in the program—it is a sequencing

of trying to manage the program within the resources we have available to it to get the appropriate data.

Senator BUSHBY—But now you are duplicating, in a sense, resources by going out and surveying successful applicants to get information.

Mr Paterson—We do these things within the resources that are available to us.

Senator BUSHBY—But that means that you are using resources for this that you could have been using for other purposes.

Mr Paterson—But we were using those resources earlier to establish the program and to do the activities that needed to be undertaken to roll it out. I do not see this as a fault; I see this as part of the evolution of a new initiative and making sure we have the appropriate information.

Senator BUSHBY—I would have thought that, when you are setting up a program to spend taxpayers' money, considerable thought would have been put into the mechanisms that you are going to use to assess the success of that at the beginning. Saying that you needed to focus on getting it up and running sounds more like—and I am not saying this—something that the minister would be looking to see, to get something up and running quickly so that they can say they have done it.

Senator Carr—Are you saying there is something wrong with that, mate?

Senator BUSHBY—No. I am saying there is something wrong with that if, in the haste to get it up and running—

Senator Carr—It was being done properly!

Senator BUSHBY—you fail to ensure that you set it up properly.

Mr Dean—Senator, I might be able to assist on this point. One of the reasons the program has been as successful as it has is that there is a very simple application process that does not require a lot of data. That is not an oversight; that is the intention. All the feedback that we have heard from the clients in the program is that this is one of its great successes because firms are admitted to the program within 24 hours of their application. If we were to ask for a whole lot of data then it would be a red tape burden on the firms. The way it has been set up is a more efficient way of doing it.

Senator BUSHBY—I can see that it would be attractive to the firms to be able to get in the door. But once they have met the eligibility requirement surely you could say, 'Okay, in return for the assistance we are going to provide you, this is what you need to provide us now.'

Mr Dean—I think that is what we are doing, except we are not asking—

Senator BUSHBY—You are doing it now but you were not doing it when initial applications were successful.

Mr Dean—I think the point is that we are asking for it. We are not asking for it from everybody because we are mindful that one of the things that make this work is that we do not put a lot of red tape on the firms. So we are choosing to do a statistically valid sample of the firms in the program rather than getting the data from everyone.

Senator BUSHBY—So the survey you are conducting at the moment is not a survey of everybody.

Mr Dean—No.

Senator BUSHBY—Okay. I will move on to business enterprise centres. What arrangements are in place for the governance and management of the 36 funded business enterprise centres across Australia?

Mr Peel—The business enterprise centres are required to report to us twice a year on their activities against certain performance criteria that we have established. Those performance criteria, essentially, are about the number of businesses that they assist each year and the range of services they provide to those businesses.

Senator BUSHBY—They report to you twice a year?

Mr Peel—Twice a year—in May and November, I think it is.

Senator BUSHBY—What is the set-up for the management of each of the centres?

Mr Peel—The business enterprise centres are not part of the department; they are independent bodies to which we are providing funding that partially funds their operation. They also get money, for example, from state governments and the private sector as well—they are not a Commonwealth entity, as such.

Senator BUSHBY—Presumably there is an agreement with the centres that contains some requirement to ensure that the moneys that are provided are spent appropriately.

Mr Peel—Yes. We have a contract with each of the centres which spells out the money they will receive from the Commonwealth for the activities they undertake, the focus that those activities should have and what our expectations are. They report against those twice a year. They are also required to get audited financial statements to make sure they are spending the money appropriately. We also have our own compliance arrangements where we can go and have a look ourselves and check what they are doing.

Senator BUSHBY—Apart from the reporting twice a year and the audit requirement, there are no specific requirements about how they are governed or managed in the contract?

Mr Peel—I am not sure of the detail of the contract. There would certainly be things in there to make sure that they are appropriately governed and that the taxpayers' money is not at risk in that sense, but I am not sure of the exact detail that would be in the contract on that. But certainly there would be adequate protection for the taxpayers' money in that contract, which would have been developed in conjunction with the Attorney-General's Department.

Senator BUSHBY—There are 36 centres across Australia. Is that correct?

Mr Peel—There are 36 that are being funded through our program. I believe there are more than 100 across Australia.

Senator BUSHBY—How were the 36 that are being funded selected?

Mr Peel—It was an election commitment. The government, when in opposition, committed to funding 36 identified centres, and we are funding those.

Senator BUSHBY—So prior to the election the then opposition announced which 36 would be receiving the funding if they won the election.

Mr Peel—Correct.

Senator BUSHBY—It is fair to say then that the department did not seek any advice from local communities or state, territory or local governments on those final selections?

Mr Peel—No. We implemented the election commitment that the government had made, which was subsequently funded in the budget.

Senator McGAURAN—The mission of the whole funding exercise is that in the end they will all stand on their own two feet, isn't it? Therefore, is the funding for the 36 that you are now funding going to run out?

Mr Peel—It is not that they stand on their own two feet. The objective of it is so that they can expand and strengthen the capacity they already had to provide services to a greater number of small businesses. The current commitment was for four years. Whether the government continues that funding beyond the four years is a budget matter for the government to consider at an appropriate time.

Senator EGGLESTON—Can I just ask about the services they provide? Essentially it is advice, isn't it, on management, finance, those sorts of things?

Mr Peel—Yes, those sorts of things. We have actually provided a list to them of the sorts of things that we would like to see them do—mentoring for new businesses and people who want to establish a business, business planning advice, loans and banking, simple marketing plans, legal and accounting, leasing guidance for premises they might want to use for their business, government regulations and so on.

Senator EGGLESTON—When you select a centre, are you in part looking for an active local chamber of commerce, an active local business community?

Mr Peel—We did not actually select the centres, but by and large I think they are very well connected to the local chambers of commerce, local government authorities and so on.

Senator EGGLESTON—Can we go back one step? If you do not select them, how is a centre created? Is it in response to local demand?

Mr Peel—The centres were already there. In certain states, they are funded by state governments as well. In others they have received funding from local government or business organisations. But the 36 that have been mentioned that we are funding all existed previously.

Senator EGGLESTON—Essentially they were upgraded.

Mr Peel—We are giving them extra funds so that they can expand their services.

Senator BUSHBY—Do you, in your agreement with each centre, provide direction and objectives for the outcomes that the government expects them to achieve?

Mr Peel—We have provided, as I have mentioned, a list of services that we wish to ensure that they deliver. They may already deliver—

Senator BUSHBY—Is that in the contract?

Mr Peel—It is in the contract.

Senator BUSHBY—Does it require them to deliver?

Mr Peel—It is a requirement to deliver those. They report on how they are going in delivering those services and we check through on that. As I say, they report twice a year.

Senator BUSHBY—Do they vary between centres or are they all the same?

Mr Peel—They vary between centres. We have given a list of services that we want them all to perform. The vast majority of them are performing all of those services. There are some that, for particular reasons—sometimes unusual reasons, such as they have been affected by floods and so on—have seen their business activity dwindle for a while, but by and large we are satisfied that they are all aspiring to deliver those services, and the majority of them are.

Senator BUSHBY—And the department's ability to check that and what you just said that you are aware of comes from the reports that they give you twice a year?

Mr Peel—We get reports twice a year and they get paid on the basis of those reports. We will also undertake our compliance activities so we can go and have a look and audit their books?

Senator BUSHBY—And do you do that?

Mr Peel—We do do that, yes.

Senator BUSHBY—How many centres would have been subject to your own compliance system?

Mr Peel—We have not actually done a detailed compliance yet on the centres. We have it in our plan for this year to do that.

Senator BUSHBY—Are they scheduled?

Mr Peel—They have basically been establishing the services and so on in the initial period.

Senator BUSHBY—Will they be scheduled visits to the centres or will you be—

Mr Peel—No, they will find out shortly before we arrive.

Senator BUSHBY—I will not ask you who, then. I would not want to steal your thunder in that regard. I take it that, because of the nature of the centres, it is probably difficult for you to give me any indications of staff numbers.

Mr Peel—No, we do not have that information.

Senator BUSHBY—Because they are not actually run by your department?

Mr Peel—No, we are just providing some funds to them. They get funds from other places.

Senator BUSHBY—How many staff in the department actually work on the program?

Mr Peel—On this particular program, we have departmental funding of about \$270,000, so that is probably about three people.

Senator BUSHBY—In terms of the staffing, I know you cannot tell me what the staff numbers are on the ground, but do you have in your contract any requirements for there to be a certain number of on-the-ground business advisers or a certain proportion of the funds

provided to actually provide on-the-ground services or is it more focused on the outcomes so that you leave it up to the centres?

Mr Peel—It is more a requirement to provide the services and ensure that they do. The number of staff that they employ and so on is really a matter for them.

Senator BUSHBY—Provided they deliver the services.

Mr Peel—Our concern is that they deliver the services that we are paying for.

Senator BUSHBY—Okay. Do you have, through the contract or otherwise, any input into how companies that are assisted are actually selected? Is there an expectation that all small businesses that rock up to a centre should be assisted?

Mr Peel—There is an expectation that they will market their services to ensure that the businesses in their areas are aware. Businesses will be aware anyway and will come and knock on the door, and we expect them to assist any business that comes to their door and asks for that sort of assistance.

Senator BUSHBY—I will move on, then, to the Green Building Fund. Thank you.

Senator McGAURAN—Do we have a list of the 36?

Senator BUSHBY—Yes, I think it is probably publicly available. But if you could provide a list of the 36—

Mr Peel—We can. I think it is on our website, but we can provide that.

Senator BUSHBY—Thank you. With respect to the Green Building Fund, I understand from notes that I have been provided with that the minister has previously refused to provide full details of grant recipients and unsuccessful applicants.

Senator Carr—Sorry. This is in regard to what?

Senator BUSHBY—The Green Building Fund.

Mr Peel—No, that is not true.

Senator BUSHBY—That is not true?

Senator Carr—I have been accused of many things, but I do not think I am guilty of that one. Sometimes they are right, I agree, but not this time.

Mr Peel—What I can say is that all successful applicants are made public—their names and how much money they get out of the fund. We do not, though, provide information about unsuccessful applicants, so that may be what—

Senator BUSHBY—Maybe that is what my notes refer to.

Mr Peel—For any program, we do not publicly provide information on who applied and was unsuccessful.

Senator Carr—It is a statutory requirement that that be published within a certain period, if I remember rightly, and I understand that the department is fulfilling that.

Mr Peel—The new grant guidelines issued by the department of finance require us to publish details of people who are successful in their applications within, I think, a week or so. I could be wrong, but it is a short time—seven days from the signing of the contracts.

Senator BUSHBY—What detail is provided regarding the successful applicants in this program?

Mr Peel—We provide the name of the successful applicant, the amount of grant funding that they have received and the purpose of that grant funding. So in relation to the Green Building Fund we would say that they got so much money to upgrade the air-conditioning system in a particular building.

Senator BUSHBY—Is there any detail provided or available as to the location of the building that is benefiting from it?

Mr Peel—Yes, I think you will find all of that information on the AusIndustry website.

Senator BUSHBY—Is there any detail of the breakdown of the costs associated with the project itself beyond the amount of money that the government is providing?

Mr Peel—No, just the amount that we provide to them.

Senator COLBECK—Is there a contract ratio or a project cost proportion—

Mr Peel—Like a dollar for four or something like that?

Senator COLBECK—Yes, is it limited to something 25 or 30 per cent of the project value?

Mr Peel—I think it is something like 50.

Mr Sexton—The scheme provides grants of between \$50,000 and up to \$500,000.

Senator COLBECK—But as a proportion of the project value?

Mr Sexton—No, there is no fixed percentage. Many of the projects that come to us are worth many millions of dollars but the maximum grant they can achieve is \$500,000.

Senator COLBECK—So if someone comes to you with a \$600,000 project then potentially they could get \$500,000.

Mr Sexton—Yes, they could in.

Senator Carr—And have they?

Mr Sexton—Generally they do not ask for 100 per cent.

Senator COLBECK—No, and I was not trying to make a judgment value; I was just trying to get the parameters of the project.

Senator BUSHBY—In respect of successful applicants, is there any information provided regarding the energy or emissions reductions that are saved in the project?

Mr Sexton—The minister has announced with each of the outcome rounds what the expected or projected total savings are for the group of projects for which he is providing grants.

Senator COLBECK—But not broken down by project?

Mr Sexton—No, but not broken down on an individual project basis.

Senator BUSHBY—Is there a reason why that is not provided?

Mr Sexton—They are projections and it will not be until the end of the scheme that we undertake a full evaluation to determine whether those individual projections have been achieved.

Senator BUSHBY—I am going to ask you some questions about evaluation in a minute so we will get to that.

Mr Sexton—There are some key competitive issues about producing individual projections. These buildings in the main are being upgraded in order to be able to seek tenants so there is some competitive information there. We also have an agreement with each of the companies on what information will be publicly produced and the savings of individual projects is not included in that list.

Senator BUSHBY—And the application process is a competitive process?

Mr Sexton—Yes, it is a competitive process.

Senator BUSHBY—Can you tell me how many applications have been received for each round to date, how many applications have been successful, how many applications have been found to be eligible but not successful, and how many applications were rejected for each funding round process to date?

Mr Peel—I can give you part of the answer I think for the first four rounds. In the first round we received 65 applications, 44 of which were approved. In the second round the received 83 applications, 45 of which were approved. In the third round we received 69 applications, of which 37 were approved. In the fourth round we received 51 applications, of which 30 were approved. The fifth round, which is the last one that we did, is still in the assessment stage.

Mr Sexton—We have received 67 applications there and of course we do not have any outcomes as yet.

Senator BUSHBY—Can you take on notice then, of those that were not successful, how many of them in each round were eligible but just did not make the grade on the competitive process and how many were actually rejected because they did not meet eligibility requirements.

Mr Peel—Yes, certainly.

Senator BUSHBY—In a press release from Senator Carr issued on 20 May 2009 the minister stated:

“Reducing greenhouse emissions means an increase in energy efficiency and real savings for business in tough economic times.

What are the total claimed emissions and energy consumption reductions and business cost savings achieved, and to be achieved, as a result of the successful grant applications so far? That should be an easy question for you to answer, because I think you mentioned that you do it for each round.

Mr Peel—I will give you the figure that I have got here but I will double-check it later just to make sure. From approved applications to date it is 127.8 kilotons per annum.

Senator BUSHBY—Do you make any assessment as to what are the total business costs saved as a result?

Mr Peel—No, we do not do that.

Senator BUSHBY—Is that something that you have information on?

Mr Sexton—The intent of the program is to attempt to reduce greenhouse gas emissions, so we are very focused on the emissions.

Senator BUSHBY—But, as I quoted from the minister's press release, he was actually spruiking the program as also delivering business costs and savings.

Mr Peel—I guess it is logical that, if you reduce your greenhouse gas emissions, you are making the building more efficient and therefore business costs will be saved.

Senator BUSHBY—That is exactly what the minister said. You are selling that as one of the benefits of the program; I was just wondering whether there had been any analysis of those benefits undertaken.

Mr Sexton—We are not actually measuring any savings in actual energy costs.

Mr Peel—It is just the greenhouse gas emissions.

Mr Sexton—But it is logical that they would follow.

Senator BUSHBY—That is fine. How does the department establish which energy efficiency measures require grant assistance to be implemented and sort those out against those which would have happened in any event if they had not received the grant money?

Mr Sexton—It is a competitive granting scheme and there are a number of criteria by which we assess each application. The main criterion, however—which accounts for about 60 per cent of our consideration—is the level of greenhouse gas savings that are projected. That information is provided to us by an independent source; it is not provided to us by the claimant themselves. They are required to provide an independent source of what is called a National Australian Built Environment Rating assessor's determination of what that might be. They measure the current emissions of the building. They then also provide a projection based on what would be the subsequent emissions if these activities took place. That reduction is what we will check in several years after the project is completed to see if those reductions were in fact realised.

Senator BUSHBY—That is fine in that respect, but there may well be projects in which a developer in the process of refurbishing a building might well have delivered those emissions reductions regardless. How do you actually work out which applicants actually need the money to be able to deliver that as opposed to those who would be proceeding anyway and are just looking for a bit of cash from the government to make it a bit cheaper?

Mr Sexton—There is no additionality test about this particular program. There may well be some buildings in which it would have happened anyway, but it is very difficult to determine that. I would say two things, though. One is that this program was launched just as the global financial crisis hit, which caused many of these operators to reconsider whether they wanted to take these projects given the situation: high tenancy rate vacancies and so on. What we found, though, in the first two rounds was that many applicants who were incurring

considerable sums of investment in these upgrades were not seeking the full \$500,000 grant level; they were seeking something significantly less. When we checked with them on why that was the case, their answer was that they were putting proposals to their boards to seek a grant which would just get it over the rate of return threshold that those boards required for an investment proposal. So, rather than going for the full amount that they may have been entitled to under the program, they were simply going for that amount which would make the project commercially viable for their board. So I took some comfort from that.

Senator BUSHBY—I can see why you can in respect of the ones that you spoke to from which you received that response, but presumably not every successful applicant gave you that same answer.

Mr Sexton—No, they did not, but a significant number did. You could see when you compared the rate of grant as a percentage of the total cost that it varied between as low as 10 per cent and 12 per cent.

Senator BUSHBY—I do not want to labour this point, because I have some other questions, but presumably, if you were a property developer looking to refurbish a property and you thought that you could get some money out of the government to help offset some of your costs, you might go in with something that is a little bit smaller. There are all sorts of reasons why you might not ask for the maximum amount. Part of it may well be strategic in terms of trying to maximise your likelihood of actually getting the successful outcome.

Mr Sexton—That was exactly the same thinking that I went through at the initial stages—were they providing different rates in order to test us, if you like, on what would be supported? But no; I have confidence in their responses that it was all about, ‘What do we need in order to make this a commercial proposition?’

Senator BUSHBY—But, as you say, there is no additionality test.

Mr Sexton—There is none. It would be very hard, actually, to have an additionality test in a program like this.

Senator BUSHBY—In the program of approval of successful applicants, the government will presumably go through, they will look at the applications and they will make a list of recommended applicants for approval. Is that then signed off by the minister?

Mr Sexton—No, that is signed off by a program delegate who is an officer within the department.

Senator BUSHBY—I think I might actually have been sitting in here and heard some discussions between Senator Abetz and the department about that in the past. So there is no input at all by the minister in terms of the final—

Mr Sexton—The minister is given the opportunity to announce the outcomes. That is his only role.

Senator Carr—That is a very fine opportunity, I can tell you!

Senator BUSHBY—My final questions, then, are about the evaluation. How do you look into the delivery of the programs to make sure that the promised and claimed reductions are actually taking place and are delivered?

Mr Peel—Part of the grant arrangement is that 20 per cent of the grant is held back until we get a NABERS assessment, which Mr Sexton mentioned earlier, to demonstrate that the claimed savings have been achieved. I think that happens about a year after the project is completed.

Senator BUSHBY—And then the final 20 per cent is paid?

Mr Peel—And then they get paid the 20 per cent if they have achieved—

Senator BUSHBY—What if they have not achieved the claimed reductions? They just do not get the 20 per cent but there is no recourse with respect to the original 80 per cent?

Mr Sexton—The payment is not dependent on achieving the projected savings; the payment is determined by their providing us with that information. There will be reasons why they do not achieve it—so there may well be applicants who fail to achieve the claimed saving in emissions, but if they provide you the information showing that, then they still get their 20 per cent.

Senator BUSHBY—They still get the 20 per cent? That is interesting.

Mr Sexton—That information will be used to evaluate—

Senator BUSHBY—Future applicants?

Mr Sexton—the benefits of the program.

Senator BUSHBY—So that would be the case even if their project was a dismal failure and delivered no savings?

Mr Peel—If they messed up the project—if they were just totally hopeless with the project—I do not think we would be giving them the 20 per cent then.

Senator BUSHBY—Do you have a legal basis for not giving them the 20 per cent in that circumstance?

Mr Sexton—No, we have a deed with each company which sets out the payment schedule and the milestones that they are required to achieve—that is, 20 per cent is paid on the execution of the agreement or commencement of the project, 60 per cent is paid at the completion of the project activities and then, 12 months after that, on the provision of their final report about what reductions—

Senator BUSHBY—As Mr Peel says, though, if they were absolutely hopeless—

Mr Peel—If the project was not proceeding satisfactorily, we could cease it before that point. So the point I am trying to make is that if we gave somebody a grant to undertake a project and it was clear to us that they were not doing it properly, that it was a waste of taxpayers money, we would take the opportunity to have a good look at that and cease the grant and not necessarily wait till the end of it. So—

Senator BUSHBY—So the only opportunity you would have would be if you became aware during the course of the implementation of the project that they were, to use your word, ‘hopeless’ and were not actually going to be able to implement it? You could cease it at that point?

Mr Peel—If they were clearly doing things contrary to the objectives of the program and they were not going to achieve those—

Senator BUSHBY—Yes, but if that did not come to your notice until after completion, and then—

Mr Peel—No, we monitor the grants throughout the period of the project; we do not just give them the money and then look at the end. So if it occurred to us during the project that there were issues, we would pursue those issues; we would not throw good money after bad.

Mr Sexton—We have a compliance process in place to monitor the progress of projects.

CHAIR—Senator Cameron has a question, so—

Senator BUSHBY—That is my last question on this. I have some questions on something else, but I do not think they will be able to answer them. I think it is probably the wrong place, but I wanted to ask. The department also covers small business. Is there somebody who can answer small business questions in relation to the impact of the CPRS?

CHAIR—Senator Bushby, we have Senator Cameron and Senator Colbeck also wanting to ask questions, so have you got much more there?

Senator BUSHBY—I will ask one question, and the answer to that will probably eliminate all the rest of my questions, anyway. Has the department conducted any analysis on the impact of the CPRS on small business?

Mr Jones—No specific analysis. We tend to rely on Treasury modelling for the impact of the CPRS across the economy.

Senator BUSHBY—So no input has been made in respect of the fact that majority of small business do not receive any compensation under the CPRS as drafted?

Mr Jones—We have not undertaken any separate analysis of that question.

Senator CAMERON—Mr Paterson, I am not sure who can help me with Enterprise Connect Tasmania and Enterprise Connect New South Wales. I would like to ask some questions about those two areas specifically.

Mr Paterson—We should be able to help you.

Senator CAMERON—How is the progress of the Enterprise Connect program in Tasmania at the moment? How many actual programs are in place with individual enterprises?

Mrs Zielke—I will take a look at some of the figures I have here. As to the number of business reviews that have been completed to date, we undertook 48 in the first financial year and 24 in the second financial year. So far this year to date, the Tasmanian centre has undertaken 21.

Senator CAMERON—Given that there is a declining number, is that because you are not doing as much in Tasmania, or is it due to the size of the job?

Mrs Zielke—My apologies, Senator. The first figure I gave you is the total of the other two figures. I have given you the total. Tasmania has undertaken 48 to date through the program.

Senator CAMERON—Are these medium-size or small manufacturing companies predominantly? What is the nature of these companies?

Mrs Zielke—Seventy per cent of the companies that we are working with at the moment have a turnover of between \$2 million and \$5 million a year. They are fairly small companies in relation to the eligibility criteria for the program, which is a turnover of between \$2 million and \$100 million per year.

Senator CAMERON—Do you have any success stories for us through the program in Tasmania?

Mrs Zielke—We do. I do not believe that I have any documented ones with me today but I am more than happy to take that on notice and provide you with some of those.

Senator CAMERON—How many employees does Enterprise Connect have in Tasmania?

Mrs Zielke—The Tasmanian office has six staff.

Senator CAMERON—What sort of background would these staff have in terms of qualifications?

Mrs Zielke—We have staff who are responsible for the administrative arrangements in relation to running the centre. We also have business advisers who are officers who have been employed specifically because they have industry knowledge and expertise and can undertake business reviews with the companies.

Senator CAMERON—So the focus when Enterprise Connect goes into a company in Tasmania or New South Wales would not simply be about cost reduction; it is not simply about trying to reduce costs. As I understand it, and correct me if I am wrong, cost would be an issue, as would quality, on-time delivery, technology, management practices and logistics—that whole raft of areas.

Mrs Zielke—Along with business planning, strategic planning and HR issues. They are all areas that would be covered in the business review assessment.

Senator Carr—Senator, what we are trying to do is to go into individual firms and provide a top-quality service—an unparalleled service in comparison with anywhere around the world—specifically to assist management come to terms with the challenges that business faces. As far as I am concerned, this is a new area that we are trying to open up. People talk a lot about vocational training but they talk very little about management training—about how to actually run the business in such a way so it is successful. What we have found—in terms of the testimonials I have heard when I have travelled around the country—is that people are responding incredibly well.

Often a business is established by a tradesman and his wife or a couple and they will have a burst of activity and go quite well for a while and then they run into the brick wall of all the challenges of actually keeping the lights on. Enterprise Connect is providing the benchmarking they need to know how everyone else does it. It provides them with access to the best technology and the best networks that are about. We have a Researchers in Business program associated with Enterprise Connect to provide them with access to the best technologies and the best people so that they get a chance of long-term survival.

Mrs Zielke—Senator, you asked for an example in Tasmania, and I have one in relation to a group that we are working with. In Northern Tasmania, you may be aware that Caterpillar has changed the way in which it works with its supply chain in that area and requires new lean

manufacturing arrangements of its supply chain. So, in addition to working with around 20 individual companies there, we are working with those 20 companies as a group as part of the supply chain for Caterpillar to help them better meet the needs Caterpillar is imposing on them. In turn, Caterpillar is working with us as well to ensure that that whole supply chain is improved as a result.

Senator CAMERON—I do not suppose the business advisers go in and say, ‘Look, we’ve got all the answers for you.’ I suppose it is a learning process on both sides, and a wealth of knowledge is built up when the business advisers go in.

Mrs Zielke—That is correct. It is about sharing knowledge as well as helping the company understand some of the improvements that they could make. And then, through the Tailored Advisory Service Grant following the business review process, companies work with other service providers and continue to expand their network in relation to who they can go to to seek additional advice from and continue to work with. So, in addition to those service providers that are assisting them to implement recommendations from the business review using those grants, they are also improving their network and working with other peers in their networks and learning from them as well.

Senator CAMERON—How is the knowledge pool shared around the whole network, across all the different states? Something you learn in Tasmania might be important to pass on to another state. How does that work?

Mrs Zielke—That is a good example. The service provider that a particular company in Tasmania needs might actually be located in Victoria, and the same applies in other states. We have an internet portal that we use to share that information around our network and also to identify business advisers with particular experience in various areas of technology so all of the business advisers are aware of the skill sets of all the other business advisers and can benefit from that. For example, if a company comes forward with a particular need, a business adviser in Tasmania will go to the business adviser with that particular expertise in South Australia and share that information across the group.

Senator Carr—Senator, we are looking for this to be a national program, so it is genuinely national in its scope. On top of the things that Mrs Zielke has mentioned, there are also questions in relation to a series of conferencing that occurs between the centres, and in terms of the networks we are trying to ensure there is a broad national communications strategy. I have met with people a regular basis. We are now, I think, dealing with over 2,000 individual firms in terms of support through the network. This is clearly a program that has all the signs of enormous success.

Senator CAMERON—Thanks. I have one last question, and you can take this on notice. Could you provide me with information on some of the successes in New South Wales and the statistics from New South Wales.

Senator Carr—Yes. It is also linked in with the innovation councils.

Mrs Zielke—The industry innovation councils have also done a series of videos that are available on the department’s website which, in addition to highlighting the work that is being undertaken through the industry innovation councils, highlights the work that is being

undertaken through Enterprise Connect. There are several case studies that could be used from that group.

Senator CAMERON—Thank you.

Mr Paterson—All the cameos that Mrs Zielke is talking about are downloadable. They are widely accessible. None of them are scripted. We did not put any of the words into people's mouths. They are all natural interviews of the experiences of those individual companies. We have got them from around Australia in a variety of sectors.

Senator CAMERON—I have not looked at the website, I must confess. I gather from what you are saying that there are generally positive responses from the business community about the program.

Mr Paterson—That is exactly right.

Senator Carr—Extremely positive.

Senator COLBECK—Minister, I go to a couple of current events before we go to dinner. Can you give us an indication of your conversations with Toyota with respect to the recall on Prius, please?

Senator Carr—I would like to believe that we have a very strong relationship with the company. With regard to the recall, the CEO rang me and discussed the issues with me before it was announced.

Senator COLBECK—It is nice to get notice.

Senator Carr—It is. I have met with other companies where you talk about it after the advertisement appears in the paper. That is not the case with Toyota and it is not the case with the CEOs. The company has been very frank and forthright about the situation. As is now publicly known, there is a worldwide software problem, which is being fixed. The recall is unfortunate but necessary.

Senator COLBECK—Is any of the technology that is used in the Prius applicable to the manufacture of the Camry that is—

Senator Carr—No.

Senator COLBECK—So they are separate—

Senator Carr—They are separate systems.

Senator COLBECK—There is no crossover?

Senator Carr—No crossover.

Senator COLBECK—I go to the announcement this morning about the fabric for military uniforms being sourced outside Australia.

Senator Carr—Can I draw your attention to the statement by the minister with regard to that. This is a matter that Mr Combet is responsible for. There were a number of articles that appeared in the press this morning, in the *Daily Telegraph* and the *Melbourne Herald Sun*. What the minister has indicated is that the reports were not accurate. He said that he can confirm that there is no fabric used in the combat clothing for the ADF that comes from Chinese suppliers. In fact, I think that where the confusion has come from is that one of the

manufacturers of the combat clothing in Bendigo has an interim contract with Defence for two years and that, in the second year of that contract, there is an option that was put forward by the company to source fabric from China, but Defence has never exercised that option and does not intend to exercise that option.

Senator COLBECK—So no material has been accessed from offshore?

Senator Carr—That is the situation.

Senator COLBECK—The reason I wanted to raise it here is that obviously textiles are part of this portfolio. What I was wondering was whether any of the recent changes to SIP which took fabrics out of the scheme, as I understand it—

Senator Carr—No. This has nothing to do with our program management. We have actually expanded the program in textiles, but this is a question that has occurred with regard to the Defence contract and, as I have indicated, the minister has responded by saying that the option will not be exercised.

Senator COLBECK—Notwithstanding that, the SIP scheme has changed, to exclude fabrics, from what it was previously. I do not think it is necessarily something that is overly concerning the industry, but I was talking to—

Senator Carr—We have actually put more money into textiles. Perhaps I will let Mr Lawson explain.

Senator COLBECK—I was not making any allegation that you had not. I sat down and had a conversation with one of the operators who lives in my town. I have two major businesses with about 500 employees in my neck of the woods, so I do take an interest in this.

Senator Carr—I am pleased that you do.

Senator COLBECK—They have taken advantage of SIP to a significant extent, which is why they are still there.

Senator Carr—Could Mr Lawson help me with—

Senator COLBECK—It was a matter that came up in conversation. I was interested to know whether there was any link and, if there is not, there is none.

Mr Lawson—The TCF post-2005 SIP scheme still exists. As you know, the tariff reduction occurred on 1 January and SIP is a structural adjustment program, so the funds still flow in 2010-11 for SIP to textile producing companies, as was always the case. They earned that money in the financial year before. SIP has not changed.

Senator COLBECK—It has not changed yet, but it will.

Mr Lawson—Under the previous government and under the current government SIP was restricted to the sectors that were having the tariff reductions so when the tariff reductions stop for textiles SIP stops applying.

Senator COLBECK—That is good clarification. I want to turn quickly to the Green Car Innovation Fund. With regard to current investments into green vehicles from the green car fund, are Camry and the Holden Cruze the two major recipients?

Senator Carr—No, there is some stuff for Ford as well.

Senator COLBECK—That is what I want to clarify. Let us deal with the Cruze and the Camry to start with.

Mr Payne—The government has announced grants to Ford, Holden and Toyota under the Green Car Innovation Fund. I am not sure if you would like us to run through each of those.

Senator COLBECK—There is an investment in the Camry for Toyota, which was about \$35 million. Is that correct?

Mr Peel—It was \$45 million for Toyota.

Senator COLBECK—And for the Cruze?

Mr Peel—The Delta localisation project, which is the Cruze, received \$149 million.

Senator COLBECK—And the Ford investment?

Mr Peel—That was \$42 million.

Senator COLBECK—Into?

Senator Carr—That is for Eco-boost.

Mr Peel—That is the Eco-boost motor for the Falcon.

Senator COLBECK—I just wanted to clarify that. Is there any mechanism to determine value for money as part of that process? What are the parameters for making the individual decisions?

Mr Peel—Those three decisions that we have mentioned were taken by government.

Senator COLBECK—So they are effectively ministerial decisions in conjunction with the cabinet.

Mr Peel—It was a cabinet process, yes. The grants are paid in arrears on the attainment of milestones by the companies so if they do not attain those milestones they do not get the payments.

Senator COLBECK—I would like to move onto something we have discussed previously: the Pulp And Paper Industry Strategy Group. I understand that it has had another extension of time. Is that correct?

Senator Carr—I think we have not changed our position from the last time we discussed this.

Mr Payne—The deadline for the presentation of that report is now the end of next month.

Senator COLBECK—Is that 31 March?

Mr Payne—Yes.

Senator COLBECK—Has the group met since 7 December, which I think was the last meeting I was aware was going to happen?

Mr Payne—Yes. There was a meeting in January.

Senator COLBECK—Minister, can you give some advice on when you might be looking to release the final report?

Senator Carr—I have not received it, so I cannot help you until such time as I have a look at it.

Senator COLBECK—That is all right.

Senator Carr—It is obviously our intention to canvass these issues publicly. There are some major questions we are trying to grapple with. I will wait for the receipt of the report and obviously we will raise this matter at the next estimates, because I am sure you will ensure that we do.

Senator COLBECK—I think you will find that I will be around. With regard to the \$20 million announcement that was made in Tasmania recently, can you give me the number of applications for the North West and Northern Tasmania Innovation and Investment Fund?

Mr Peel—I think it is 121.

Senator COLBECK—I hate to think to what quantum that might be.

Senator Carr—Obviously people want a lot more money than is there but, with regard to the 121, I am really very pleased that we got such a very large number of applications.

Senator COLBECK—I am sure you have met with some. I know I have met with some.

Senator Carr—I am told that there are some very good applications amongst them. I am waiting on further advice.

Senator COLBECK—For some of the businesses I know it would be very handy.

Senator Carr—It is 123.

Mr Peel—Sorry about that. I was going from memory.

Senator COLBECK—Do we know roughly when we will be starting to roll that out?

Mr Peel—As the minister said, we are currently looking at the applications. They will be assessed over the next four to six weeks, I would imagine, so there will be some announcements in, say, the next six to eight weeks.

Senator COLBECK—There was another program—I think it was part of the Regional Assistance Program, Tasmania. Is there a role for the government in that? It was \$2.5 million.

Senator Carr—That is the Tasmanian government part of this program. It is essentially looking at very small grants.

Senator COLBECK—Federally, do we have a role in that process?

Mr Paterson—No.

Senator COLBECK—If we do not, that is fine.

Senator Carr—It is part of the joint fund but it is administered by the Tasmanian government, just as we administer the larger program.

Mr Paterson—Could I just clarify one response to an issue that was raised a little earlier in relation to the Green Building Fund. I think Senator Colbeck or maybe Senator Bushby asked a question in relation to the Green Building Fund. He asked whether there was a maximum percentage of eligible project costs. I think the answer given at the time was: no, there is not. There is. The grants are limited to a maximum of 50 per cent of the eligible project costs.

Senator COLBECK—That was my question.

Mr Paterson—The maximum is 50 per cent, and that is not the answer that was given earlier. I just wanted to correct that on the record.

[6.17 pm]

RESOURCES, ENERGY AND TOURISM PORTFOLIO

In Attendance

Senator Carr, Minister for Innovation, Industry, Science and Research

Senator Penny Wong, Minister for Climate Change and Water

Department of Resources, Energy and Tourism

Executive

Mr John Pierce, Secretary

Mr Drew Clarke, Deputy Secretary

Enabling Services

Ms Jo-Ann Rose, Chief Financial Officer, Enabling Services

Ms Nicola Morris, Chief Legal Counsel, Enabling Services

Mr Robert Towner, General Manager, Enabling Services

Resources and Energy Policy

Ms Tania Constable, Principal Adviser, Resources and Energy Policy

Resources Division

Mr John Hartwell, Head of Resources Division

Mr Chris Stamford, General Manager, Minerals Branch

Mr Martin Squire, Acting General Manager, Offshore Resources Branch

Mr Michael Sheldrick, General Manager, Fuels and Uranium Branch

Mr Peter Livingston, Manager, Offshore Petroleum Regulatory Reform Team

Ms Sue Kruse, General Manager, International, Resources Development and Taxation Branch

Mr Patrick Davoren, Manager, Radioactive Waste Section, Fuels and Uranium Branch

Ms Kristina Anastasi, Manager, Environment, Safety and Security Section, Offshore Resources Branch

Mr Mark Weaver, Manager, CCS Major Projects Section, Low Emissions Coal and CO2 Storage Branch

Ms Kathy Harman, Manager, International CCS Section, Low Emissions Coal and CO2 Storage Branch

Energy and Environment Division

Mr Brendan Morling, Head of Energy and Environment Division

Mr Bruce Wilson, General Manager, Environment Branch

Mr Oliver Story, Acting General Manager, National Energy Market Branch

Mr Geoff Whelan, Manager, Retail Policy, National Energy Market Branch

Ms Helen Bennet, Acting General Manager, Energy Futures Branch

Mr Paul Johnson, General Manager, Industrial Energy Efficiency Branch

Ms Louise Vickery, Manager, Energy Efficiency Opportunities, Industrial Energy Efficiency Branch

Ms Sarah Clough, Deputy CEO, Australian Centre for Renewable Energy

Mr Doug Cooke, Acting General Manager, Energy Security Branch

Mr Josh Cosgrave, Manager, Australian Energy Security, Energy Security Branch
Mr Peter Slobodian, Manager, Renewable Programs, Australian Centre for Renewable Energy
Mr Gino Grassia, Manager, Greenhouse Section, Environment Branch
Mr Rick Miles, Manager, APP Secretariat, Environment Branch
Mr Rick Belt, Acting General Manager, Environment Branch
Mr Gary James, Manager, Solar Flagships Projects

Tourism Division

Ms Jane Madden, Head of Tourism Division
Mr Wayne Calder, General Manager, National Tourism Policy Branch
Dr Peter Tucker, General Manager, Industry Development Branch
Mr Vic Dobos, General Manager, Tourism Research Australia
Ms Robyn Agnew, Acting General Manager, Market Competitiveness Branch

Geoscience Australia

Dr Chris Pigram, Acting Chief Executive Officer
Dr James Johnson, Chief, Onshore Energy and Minerals Division
Dr Clinton Foster, Chief Petroleum & Marine Division
Mr Gordon Cheyne, Acting General Manager, Corporate Branch
Mr Geoff McMurray, Chief Finance Officer

Tourism Australia

Mr Andrew McEvoy, Managing Director
Mr Grant Le Loux, Executive General Manager, Corporate
Ms Rachel Crowley, General Manager, Corporate Communications

CHAIR (Senator Hurley)—To save a bit of time I will go through the preliminaries while the changeover is occurring. 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, Energy and Tourism; and Treasury portfolios. The committee has set Thursday, 1 April 2010 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 assistance is needed the secretariat has copies of the rules. I particularly 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;

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- (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)

[6.18 pm]

Geoscience Australia

Senator Carr—I do not have an opening statement, thank you very much. I am sure those remarks have been appreciated widely by the officers!

CHAIR—I am sure that is right! Would the officers of the department like to make an opening statement?

Dr Pigram—No, thank you.

Senator MINCHIN—Welcome, Geoscience Australia. We do not have long, I am afraid. Could you bring us up to speed on your staffing. You responded to a question from Senator Bushby about rumours about a 20 per cent cut some time in June last year and said that was nonsense but your annual report does show a reduction in staffing, between last financial year and this financial year, of some 37 staff, which is about a five per cent reduction by my count. Could you explain that: who has gone and why?

Dr Pigram—Essentially what we have at the moment is a slowdown in recruitment. Basically the reduction that is taking place is through natural attrition. We are not replacing staff who are leaving, and there are non-ongoing or contract staff who also have been allowed to go that we are not replacing. All of those reductions that you see are primarily through natural attrition.

Senator MINCHIN—Why are you not replacing them?

Dr Pigram—Essentially because, if you look at the PBS, in our budget outlook we have a lapsing program, so we are essentially preparing for the lapsing program.

Senator MINCHIN—So it is the wind-down of the money provided for that five-year additional funding you got for onshore and offshore work?

Dr Pigram—Correct.

Senator MINCHIN—To what extent is the efficiency dividend playing into the non-replacement of staff?

Dr Pigram—It is primarily the lapsing program. The efficiency dividend is something that we live with every year and manage.

Senator MINCHIN—The original profile was in the 2006-07 MYEFO for both those onshore and offshore moneys. Are the expenditures essentially running according to that profile?

Dr Pigram—They are. It was always planned to be that way, because it was front loaded for a series of major data acquisition programs. They have been completed and we are now doing the value-add and analytical and distribution phases.

Senator MINCHIN—That funding runs out in June next year, is that right? I know you cannot tell us what you are pitching for in the budget, but one would assume your minister will be seeking a renewal of the funding. Would you need to know whether that funding is going to be rolled over well before June of next year, or do you simply operate on an

assumption that it will expire and that will be it? Should we anticipate a decision on that question in this year's budget?

Dr Pigram—Clearly we need to plan and manage all eventualities, and we are planning on that basis. We are in discussion with government about the future of the funding for the organisation, but clearly that is not yet resolved and is part of this year's budget process consideration.

Mr Pierce—The retiring CEO was well aware of this profiling and set in train a process last year. He approached me about it soon after I arrived so that we could take early action and in the event that the profiling was to continue the effect on the organisation's core business was minimised and the effect on staff would be minimised. He was planning well ahead.

Senator MINCHIN—Assuming those programs expire, as they are scheduled to do, are you able to give me any information on the reduction in expenditures on onshore and offshore activity that you will be able to be engaged in as a result of the expiry of those moneys? What is going to happen in 2011-12?

Dr Pigram—The dollar amounts are in the PBS, obviously. In terms of the impact in the organisation, I think the shortest summary of what the impact would be is that we will essentially do no major data acquisition programs and we will be in a phase where we would do data mining and value adding, and try and use the information we have already accumulated. We would work from that point and, depending on the government of the day's priorities and interests in terms of the organisation, that would determine what future program was undertaken.

Senator MINCHIN—I guess you do not want to inform us of the virtue of rolling over these moneys?

Dr Pigram—I would leave it to you, Senator, thank you.

Senator MINCHIN—Can you tell me what the situation is with the offshore petroleum exploration acreage releases in relation to your activities. I am quoting from a letter from Martin Squire, from the department, to Mr Jack Kerfoot, the vice president of Murphy, in which he notes, in telling him that they would not be releasing the Perth Basin area for exploration, much to the disappointment of Murphy:

The area nominated by Murphy is subject to an ongoing study by Geoscience Australia under the Offshore Energy Security Program. It is government practice to allow pre-competitive geoscientific data collection programs to conclude prior to the release of areas.

Is that in accord with your understanding of policy and practice?

Dr Pigram—That is correct.

Senator MINCHIN—I do not want to suggest that you were misleading us beforehand but you are currently undertaking a study of that area?

Dr Pigram—We are.

Senator MINCHIN—When will that be complete?

Dr Pigram—It will be concluded in time for next year's acreage lease program, so not for the 2010 but for the 2011 acreage lease program. You would appreciate that in this context we have to be able to make all of that data available to all of the industry at the same time so that there is no advantage accrued to an individual company.

Senator MINCHIN—I am not suggesting you would make it available to one company. What is the public policy rationale for that? I am not suggesting that you would necessarily release it to any particular company. But from your perspective, and I know you are not the policy agent per se, why should these acreages be withheld until you have completed your work if there is a company ready, willing and able to go in there?

Dr Pigram—I think that is a question for the policy area, but you would know from your time that it has been common practice to have an annual, regulated release so that companies are clear about what the program will be and can do the work necessary for them to be well informed around what bids might take place. The provision of the precompetitive information is part of that process. The company has certainly expressed an interest in that region, but I think, because there has not been a lot of activity in that area in recent times, it is not ready in the normal sense of acreage release for us to put it on this year's program.

Senator MINCHIN—Is the work in that area being funded from the additional moneys you received in this five-year program for offshore work?

Dr Pigram—It is.

Senator MINCHIN—So it is what you would call a frontier area that would not otherwise have been worked on by you?

Dr Pigram—I will check that with the chief of petroleum, who is in the room, if I may.

Senator MINCHIN—Yes.

Dr Pigram—I am told that is correct.

Senator MINCHIN—I would invite you to give me your views on the success or otherwise of this offshore program which is now 3½ years into its five-year work. Has it met your expectations?

Dr Pigram—It has met our expectations inasmuch as we have had the opportunity to examine some of these ranked frontier areas that have not been examined previously. You might recall that in that area between Adelaide and Perth on the southern margin there are only 13 wells. It had never been properly explored. We have been able to gather data and we have seen a take-up of acreage in some of the basins on that coast. In some of the other areas in the far eastern frontiers we have been able to demonstrate for the first time that we do actually have basins with potential that will need to be tested in the future. So from our point of view, even at this stage without the industry take-up, we are confident that it is a success in that we will be able to put on the table information which will attract the investment that it is designed to do.

Senator MINCHIN—Do you have a very close working relationship with industry in the determination of where exactly you devote your energies with this program?

Dr Pigram—When we are funded like this we undertake an extensive consultation program to establish which are the areas of interest and what are the impediments in a geological sense that are holding people back, so that we can target the specific issues.

Senator MINCHIN—And you are satisfied that, generally speaking, industry has supported the focus that you have brought to bear on this?

Dr Pigram—We would be very confident that if you approached the representative bodies for the petroleum industry in Australia they would say our program is focused on areas that they would like to see it focused on.

Senator MINCHIN—I want to quickly raise with you the Antarctic. My attention was drawn to a fascinating piece in the *Australian* this month about a visit of Chinese dignitaries, as they are described, to the Antarctic. They went there to investigate the potential of the Antarctic's untapped mineral resources in the Australian area. I presume you were—

Dr Pigram—I have read the article, yes.

Senator MINCHIN—Were you aware of that visit before it took place?

Dr Pigram—I personally was not aware of that visit.

Senator MINCHIN—Was your organisation?

Dr Pigram—I would have to check that for you.

Senator MINCHIN—It is intriguing. What work do you do in the Antarctic?

Dr Pigram—We do have some activity in Antarctica. It is primarily around observatories. We run a geodetic observatory, a magnetic observatory and a seismic observatory for the international Comprehensive Test Ban Treaty Organisation. We have done some work offshore in terms of gathering the information that would allow us to define the extent of the Antarctic territory offshore should we choose to claim such a territory. So we have had a mixture of both onshore and offshore activities.

Senator MINCHIN—Anthony Bergin from ASPI, who wrote this piece, says that you 'should undertake an assessment of the extent, accessibility and value of Antarctic mineral resources and identify where further research work might be required to improve assessments'. To what extent are you meeting the proposition that he has put in his article as to what your activities should be?

Dr Pigram—Not at all, Senator. We have not been asked to do that.

Senator MINCHIN—Have you ever at any stage put forward the proposition yourself that that is something that Geoscience Australia should be doing?

Dr Pigram—No, we have not.

CHAIR—I thank the representatives of Geoscience Australia for coming in this evening.

Proceedings suspended from 6.30 pm to 7.31 pm

Department of Resources, Energy and Tourism

CHAIR—The committee will now resume with the Department of Resources, Energy and Tourism, with outcome 1, resources and energy. Do you have any opening statement that you would like to make?

Senator Carr—No.

Senator MINCHIN—I have looked at the additional estimates and there is nothing in particular I want to ask in detail. There is nothing you wanted to explain or say to the committee in relation to the additional estimates? You are happy for us to just take them as read?

Mr Pierce—Yes. We are available to be of assistance in any way we can.

Senator MINCHIN—I might just draw your attention to the average staffing level, which shows between 2008-09 and 2009-10 an increase in your staff from 378 to 437, which I work out as about a 16 per cent increase—a stark contrast to poor old Geoscience, which is going backwards by five per cent. Could you just give a brief explanation of that? Is that an acquisition of additional functions or what?

Ms Rose—A significant portion of that increase in ASL was the transfer of the Tourism Research Australia function back from Tourism Australia to the department.

Senator MINCHIN—Okay. When did that movement occur?

Ms Rose—In November.

Senator MINCHIN—As part of MYEFO, was it?

Ms Rose—Yes—part of additional estimates.

Senator MINCHIN—That accounts for all of that increase?

Ms Rose—No—the majority of it though. The other components were new policy that was announced in the budget last year, particularly the two flagship programs.

Senator MINCHIN—The other small matter I would just refer to in the MYEFO was this department being the victim of what is described as whole-of-government departmental efficiencies—some \$400,000 this year and \$700,000 in each of the next three years. Is that over and above the regular efficiency dividend? Or does that represent the application of the standard efficiency dividend?

Ms Rose—That represents the application of the standard efficiency dividend.

Senator MINCHIN—How are you making those savings—less travel?

Ms Rose—Through a range of mechanisms. Each individual division has received a reduction in their budget allocation, and each of the divisions has managed it individually. But with a decreased budget allocation there is a need to find savings across staffing costs, the use of consultants, travel and other administrative expenses.

Senator MINCHIN—So no particular functions, just taking a slice off?

Ms Rose—Yes.

Senator MINCHIN—I am sorry to jump around but I just wanted to quickly pursue the matter I raised with Geoscience Australia. This matter which was drawn to my attention by Murphy Australia and their failure to have the Perth basin included in this year's petroleum exploration acreage offshore release. I know that APPEA are somewhat concerned by this. I am happy to give the department the opportunity to respond to those concerns, both for the company in particular and APPEA in general, about the blanket refusal to include the Perth basin in this release despite the support of the state government in Western Australia and the acknowledged and obvious need for augmentation of domestic gas supplies in Western Australia. This was a rejection on the grounds that the geoscience activity had not been completed. Is that an absolute blanket policy to which there is no discretion whatsoever? If the work is not done, do you not even consider releasing it?

Mr Hartwell—It is not necessarily a blanket exemption, but of course in terms of our annual release of acreage for exploration purposes we want to encourage as much investment as we possibly can. That requires the potential investors having as much information before them as possible. Our experience in the past has been that unless we release along with the acreage adequate geoscience information it is very difficult to attract bids on that acreage. On the specifics of the question of Murphy Oil that you have referred to, I can ask Mr Squire to dwell to some extent on that particular issue.

Senator MINCHIN—It is Mr Squire's letter to which I refer. APPEA and others made the point that these guys wanted to go in there. You knew you would have a bid.

Mr Squire—As I indicated in that letter to Murphy Oil, each year the department invites nominations for areas which could be released in the following year by the minister at the APPEA conference. This year we received around 72 nominations for four areas that could be released during the 2010 release. Those areas are across a range of basins—both shallow and deep water; both mature areas and also some frontier areas. The department, in conjunction with Geoscience Australia goes through an assessment process in looking at those bids to offer a range of potential acreage for industry to bid on, including a mix of those areas. As was indicated by the evidence provided to you by Geoscience Australia, Geoscience Australia is currently undertaking a south-west margin study of that area which would enable sufficient seismic information and other data to be provided to enable industry to make a concerted bid and effort in that area.

Senator MINCHIN—Geoscience Australia indicated that that work would be completed in time for the next release.

Mr Squire—That is correct.

Senator MINCHIN—You cannot anticipate it, but I assume that the company itself could have some degree of optimism that therefore the department would be looking much more favourably upon the release of this area in the next release. Would that be fair to say?

Mr Squire—The department takes nominations from industry, including nominations from Murphy and others, very seriously. As Murphy has indicated their particular interest that will be looked at seriously, as it has for this year's acreage release, for future acreage release as well.

Mr Hartwell—As you would understand, in terms of the release of our offshore petroleum acreage it is not just industry nominations that are taken into account.

Senator MINCHIN—No.

Mr Hartwell—Obviously we do work closely with the industry in the context of the areas that they might be interested in; however we do need for them to go through processes to make sure that area does not cut across other interests—and they can be related to environmental interests or defence interests. There is a whole process of consultation we have to go through before the acreage can be released. So just industry nomination alone does not ensure that it will be released.

Senator MINCHIN—Did you take account in this case of the domestic gas needs of Perth?

Mr Squire—Clearly the interest in domestic gas and the potential for feeding into the Perth market drives some of the industry nominations. So, yes, those issues are considered as one of a range of factors that lead to the areas that could be released by the minister at the APPEA conference.

Senator MINCHIN—Mr Squire, you say in your letter:

... commercial decisions by individual companies are not taken into consideration in the selection of proposed areas for inclusion in the Release.

I am intrigued that you do not even consider the professed commercial interests of companies. Surely the indication from a company that it is keen to get into an area is a relevant factor. I am not saying it would be decisive or anything, but surely you would consider that. Your letter implies that you sort of deliberately do not even consider that.

Mr Squire—The information provided in that letter also applies where companies may have undertaken speculative seismic in anticipation of areas that may be released. Where a company has chosen to run or undertake speculative seismic in advance of an acreage release that is a commercial decision for the company. For example, if we were to merely rely upon the commercial activities of companies that have undertaken speculative seismic then the government's acreage release process would be driven by industry and not necessarily by the views of government or Geoscience Australia in terms of opening up new areas for exploration.

Senator MINCHIN—I appreciate that you do not want to be corrupted by speculators but in this particular instance there is a company that wants to get in there and produce.

Mr Squire—The areas that Murphy nominated were originally released in 2006 and did not receive any bids. As a result of that exercise, the north part of the Perth basin was selected for part of the Offshore Energy Security Program—which Geoscience Australia has provided you with evidence on previously. Our belief is that, as a result of that exercise, those areas could, depending on the conclusions of the analysis undertaken by GA, lead to significant and competitive bids for those areas should they be released in a future acreage release.

Mr Pierce—One of the things that we have to be mindful of in this process is not acting in a way that can be seen to the commercial advantage of one firm over another. We need to treat everybody essentially the same. So with these annual releases we need to make sure that

everybody gets the same data at the same time so everyone can have the same opportunity to put a bid in. It also helps with the quality of the bids that we get in and the quality of the work programs the put to us to help us discern between the different bids that we get.

Senator MINCHIN—I turn now to the United Nations conference in Copenhagen. Did any officials of this department attend that conference? If so, how many—who, at what level and what were their roles at this conference?

Mr Pierce—In short, we had three officers at the conference. There was a deputy secretary, an SES officer and a policy officer. The total cost to the department of those three going was in the order of \$82,000. Someone might have a more precise figure but it was in that order. In terms of roles, the Department of Climate Change has over responsibility for Australia's international climate change position but within that RET has responsibility for issues associated with, primarily, technology transfer within the UN FCCC. We take the lead in negotiations about trying to progress the inclusion of carbon capture and storage in the clean development mechanism. So we had a small number of people there on a very specific number of issues to do with technology. I just want to confirm that number. Yes, the overall cost of travel I am told—which is flights, TA, accommodation, transport and that sort of thing—was \$43,898.

Senator MINCHIN—Is that out of the overall figure of \$82,000?

Mr Wilson—The \$82,000 includes an expected apportionment of delegation costs that each department that attended will pay out of a total cost to the Australian government. So it is forty-odd thousand dollars for travel and official payments to the staff and then there are some overhead costs that will be apportioned across departments.

Senator MINCHIN—So your costs are not pro rata? You are not just paying three out of 114, or however many went—three odd per cent of the total cost—but rather you are getting hit with a larger figure?

Mr Wilson—You would have to ask the Department of Climate Change exactly how they calculate those numbers. We have not got those numbers yet; it is an expected number. They are still calculating this out across departments. I am not entirely sure how they pro rata or apportion it.

Senator MINCHIN—But presumably your department will be insisting that it only be required to pay pro rata based on its proportion of the people who attended this conference?

Mr Wilson—We have not got the final bill yet from DCC so we do not exactly know how they are going to be apportioning it. When we see what they are going to charge us then there will be discussions around that.

Senator MINCHIN—So the known costs are the \$43,898 for three people to go?

Mr Wilson—That is right.

Senator MINCHIN—How long was that for?

Mr Wilson—There was one officer, Mr Clarke, who attended for a week, and then two other officers—one of them being me—attended for just a little over two weeks.

Senator MINCHIN—So \$14,000 per head is not inconsiderable. I am sure you were not staying in luxury accommodation, and I do appreciate it was very cold when you were there, remarkably, but it does seem a rather large amount.

Mr Wilson—There was a certain cost of living in Copenhagen about the time of the conference.

Mr Pierce—It does also include the cost of airfares.

Senator MINCHIN—I do not begrudge public servants appropriate travel and accommodation but it was a very silly place to have the conference, frankly. So that figure of just under \$40,000 is really a rubbery figure. You are not sure. To coin a phrase, there is no ‘specificity’ about the surplus that we are referring to there.

Mr Wilson—The travel and the staff payments are solid.

Senator MINCHIN—That is certain.

Mr Wilson—Yes.

Senator MINCHIN—The secretary quoted a figure of \$82,000 all up.

Mr Wilson—That one is still to be finalised. It is an expected approximate cost.

Senator MINCHIN—Did departments like yours receive supplementation for this burden upon your department or did you have to take it out of your travel budget?

Mr Wilson—It is part of our normal budget.

Senator MINCHIN—There was a matter in relation to the additional estimates that I want to raise. There is an appropriation sought of \$2.7 million over the forward estimates for a counsellor from this department at the high commission in New Delhi as well as one locally engaged staff member. I would like to ask about that decision. Who made that decision? Was that a whole-of-government decision?

Mr Pierce—Yes. It was made through the normal budget processes of a submission and people agreed to it.

Senator MINCHIN—Is this the first time you have had a departmental counsellor stationed at an embassy?

Mr Hartwell—It is not the first time we have had such a position. We have had positions in the past and we have a position now that we share with the Department of Foreign Affairs and Trade in Tokyo, where we have a counsellor for minerals and energy. In the past, we have had positions in other parts of the world but, other than locally engaged staff, we do not have a wide overseas network.

Senator MINCHIN—How many other departmental counsellors are there at the moment apart from India? Just Tokyo?

Mr Hartwell—There is Tokyo and that is essentially it, although we do have some representation looking after portfolio interests, but they are locally engaged people in Beijing.

Senator MINCHIN—I was about to say that you do not have a departmental counsellor in China.

Mr Hartwell—No, but we do have a locally engaged person.

Senator MINCHIN—Presumably this is at your initiative. Why would you desire a counsellor, who is presumably a member? Has this person been chosen?

Mr Hartwell—Yes.

Senator MINCHIN—And they are a serving officer of the department?

Mr Hartwell—Yes.

Senator MINCHIN—Why would you choose to have someone in New Delhi and not Beijing?

Mr Hartwell—As the secretary indicated, it was part of a whole-of-government position related to upgrading our broader relationship with India. That was across a number of fronts. The resources and energy relationship with India is growing strongly in a trade, investment and energy cooperation sense. It was agreed at the whole-of-government level that it would be appropriate to have a counsellor for resources and energy in Delhi.

Senator MINCHIN—The position is described as being ‘to promote and facilitate Australia’s energy and resources trade and investment opportunity with India’. That is the sum total of the description. As I understand it, as a matter of government policy, that worthy goal will specifically exclude promotion of energy and resources trade in uranium. Is that right?

Mr Hartwell—As you would be aware, it is the position of the Australian government that we will not sell uranium to India.

Senator MINCHIN—Presumably you are well aware of the Indian government’s considerable displeasure at this position. I presume your department can at least acknowledge that the Indian government is particularly displeased with this position.

Mr Hartwell—I am aware that the Indian government has a certain view on that issue, yes.

Senator MINCHIN—Could you allay my dreadfully sceptical predisposition to believe that there is a possibility this \$2.7 million of taxpayers’ money is being used to placate the concerns of the Indian government with the attitude of Australia towards India in relation to their obvious displeasure about the decision not to sell uranium to India?

Mr Hartwell—I am not sure I would agree with that connection. I am of the view that the decision to establish this position in India, stationed in our high commission in Delhi, was based on the fact that we have a growing relationship across a whole range of minerals and energy commodities and was in recognition of that fact. It is a market which almost all commentators would suggest to you will grow very strongly and be very important for us going forward. The decision to establish this position was driven by those factors.

Senator MINCHIN—Is our trade with India in resources and energy growing faster than our trade with China?

Mr Hartwell—It is growing at a comparable rate. It is obviously from a lower base, but certainly in some commodities it is actually growing faster.

Senator MINCHIN—But presumably the actual volume is but a mere fraction of the trade with China.

Mr Hartwell—It depends how you define a mere fraction. But it is smaller, yes.

Senator MINCHIN—All I am saying is that, on the face of it—and this is more for the minister to respond to—it seems rather odd that we are funding a departmental officer to go to India and we do not fund one to go to China. We have a major and frankly embarrassing situation in the relationship with India where they are insulted that we will not sell uranium to them but we will sell it to China, so the sop is to provide this counsellor. I will leave it to the minister at the table to respond if he wants.

Senator Carr—You may well have your views, but the government does not share them.

Senator MINCHIN—So from your point of view, Minister, if it really is a whole-of-government decision, why was the decision made to spend \$2.7 million to put an officer in New Delhi but not China?

Senator Carr—The officers have explained the reasons why a counsellor has been put in India. I know in my department we have made some new appointments, including in China. We have expanded our program with India. There are a range of actions that each department is taking.

Senator MINCHIN—It is no offence to the people at the table, but I am not convinced.

Mr Pierce—The question of China is somewhat separate, but India is one of the fastest growing markets for our commodities. If you were to rank the destinations—and I cannot remember precisely where they have come—you will see that over the last couple of years India has certainly jumped up that ranking quite a fair bit. For some reason, I have a ranking of fifth stuck in my head. All the conversations we have had within the department and in discussions with the government have always been around the core normal commodities. Nobody has raised any connections with me about this position and anything to do with the government's policy on destinations for uranium and the non-proliferation treaty.

Mr Hartwell—To supplement the secretary's answer, in 2008-09 India was the fourth largest importer of Australian mineral commodities. That is about eight per cent of our total minerals exports, at a value of around \$6.7 billion. In the area of energy commodities, it accounted for nine per cent of Australia's energy exports, with a value of \$4.1 billion. As you can see, from that low base three or four years ago, it has grown to be quite a substantial market for us. That underpins the establishment of that position.

Mr Pierce—We might expect that, whilst there is a lot of focus on China at the moment—and appropriately so—looking forward, one can see that the significance of India is only going to get bigger and may well get to the levels that we are currently experiencing in China.

Senator MINCHIN—Can you or the minister reassure this committee that our refusal to sell India uranium is not having any impact whatsoever on India's interest in the purchase of other commodities from Australia in the resources and energy sector?

Mr Pierce—Certainly none that I am aware of.

Senator MINCHIN—On the issue of uranium, I presume India is currently an importer of uranium from other sources.

Mr Hartwell—Yes. That is certainly the case.

Senator MINCHIN—Do you know how much and from where India is importing?

Mr Hartwell—I do not have before me either the volume or value of Indian imports of uranium and the sources of such uranium, but we could provide those for you, if you like.

Senator MINCHIN—It would be of interest to know what we are missing out on, so I would appreciate that information if you could provide it. Is the department in receipt on a regular, or otherwise, basis of representations from the Indian government with respect to its desire to be able to purchase Australian uranium?

Mr Hartwell—I think it is fair to say that we have not received regular representations on this issue. We have areas where we dialog with our Indian colleagues through a bilateral minerals and energy relationship and from my recollection uranium has never been on that agenda.

Senator MINCHIN—They have given up on us. The minister was in New Delhi last week, I gather. Is that correct?

Mr Hartwell—That is correct.

Senator MINCHIN—Are you able to tell me whether the matter of Australian exports of uranium was or was not raised in his discussions with relevant officials in New Delhi?

Mr Hartwell—I am not in a position to answer that question. I am not aware of it.

Senator MINCHIN—Are you able to take that on notice?

Mr Hartwell—Certainly.

Senator MINCHIN—Could I ask about the current status of the government's commitment to introduce a flow-through shares scheme. I note that the department's compliance with the Harradine order there is notice of the creation of a file on flow-through shares policy development. Can I ask when that file was created and whether it remains active.

Ms Kruse—I would have to take that question on notice. I do not have information with me here on when it was active.

Senator MINCHIN—Can you confirm that there is such a file? I presume your response to the Harradine order was accurate, so there is a file but you just cannot tell me when it was created.

Ms Kruse—No. I would have to take it on notice. We just do not have the information.

Senator MINCHIN—But you can confirm that it is currently active.

Ms Kruse—If it is in the list there. I would have to confirm whether or not it is still active and when it was created.

Senator MINCHIN—Is there anybody who can tell me if that file is active? That seems rather—

Mr Hartwell—I am certainly not in a position to inform you on that matter.

Senator MINCHIN—The department is required by that order to list its files. That one is listed RET09/01414, but you cannot me whether or not it is active.

Mr Hartwell—This is an issue that has been discussed at previous senate estimates. It is common knowledge that flow-through shares has been an issue that has been, certainly, supported by a number of industry proponents. We over the years have had to respond to that particular issue. The issue is the broader issue of support for exploration incentives. It is a matter that is being and has been considered as a part of the Henry tax review. So, those issues have certainly been around and have been considered by various agencies, but we do not have the specific information before us on the flow-through shares file that you are asking about.

Ms Kruse—I have just been informed that the file is active and it would have been created before 30 June 2009.

Mr Pierce—You would appreciate that this is an issue that is difficult to address in isolation of the tax review. It would have been part of information that we would have provided to the tax review and I would have expected that it would be addressed in the way in which the government responds to the tax review.

Senator MINCHIN—With respect to Mr Hartwell's earlier comments, the circumstances are somewhat different to those that pertained in the past in that the government you serve actually has a formal unqualified commitment to the introduction of this scheme in this term of parliament. That is different, is it not, Mr Hartwell?

Mr Hartwell—We are aware of the government's commitment to this particular issue and as the secretary indicated a moment ago, and as I indicated in my response, issues pertaining to flow-through shares, if you like, or support for exploration, which is essentially what flow-through shares are about, are issues that have been considered by the Henry tax review, and of course the government is now considering that review.

Senator MINCHIN—It would be unduly political of me to suggest that the government has just dumped it in the too-hard basket by putting it off to Henry, but how are we as senators meant to interpret the status of the situation? Is it a case of the Henry tax review considering how, in the context of tax reform, to give effect to this unqualified commitment of the government's, or is the very status of the commitment actually in question as a result of it now being part of the Henry tax review. Are you able to enlighten us at all on that significantly different set of propositions.

Mr Hartwell—You are leading towards speculation on my part. It is not something that I could comment on.

Senator MINCHIN—It is not speculation. Either the issue is in the Henry review because you want to know how to give effect to this commitment or it is there because giving effect to the commitment is indeed at question. It is one or the other.

Mr Pierce—You are leading us down a path which I would be very comfortable with with a previous hat on, which is essentially about tax policy and how this as a particular issue fits into the broader tax policy question. That suggests that that is really an appropriate question for the Treasury rather than for the people in this department.

Senator MINCHIN—I am disappointed you would seek to fob it off to Treasury. This is a policy matter stated to be in the resources and energy of the government. It is a policy area that directly goes to the issue of exploration, which is vital to your department and, in fact,

encouraging exploration is an objective of your department. It is a matter in which you have a vital interest. I think we are entitled to know—and maybe the minister is the one who has to answer this—the status of this commitment. Is it now under question or is it simply a matter of how to give effect to the policy?

Senator Carr—I think the officers have put to you on several occasions that the matter is part of the Henry review and that is as far as we can take it.

Senator MINCHIN—Minister, does it remain this government's policy to introduce a flow-through share scheme in this term of parliament.

Senator Carr—The government has not changed its policy. As the officers have indicated to you, the matter is part of the Henry review.

Senator MINCHIN—If the government has not changed its policy, which is to introduce such a scheme in this term of parliament, then forgive me but I think it is reasonable for us to therefore assume that the Henry tax review is considering how to give effect to this promise. Is that the situation, Minister?

Senator Carr—The advice that I have in front of me here is that the matter is being considered by the Henry review. We expect the Henry review to be released in due course and we will await further developments in that context.

Senator MINCHIN—So you are happy to leave it completely up in the air, Minister, as to whether or not the government remains committed to this policy.

Senator Carr—That is as far as I can take it tonight. I thank you for your invitation but I cannot go any further than I have already said.

Senator MINCHIN—Given this government's record for breaking promises this looks awfully like just another broken promise. Talking generally about the Henry review, as you are no doubt well aware the hills are alive with rumours of a resource rent tax being part of this review. Your minister was quoted in an interview with a journalist in New York as accepting that speculation about this new tax on the resources sector is causing very, very serious issues with the sector and causing great uncertainty. He acknowledged the matter and that it was a cause of great concern within the industry. He undertook in that interview to speak to the Treasurer about the matter. Has he done so?

Mr Pierce—I am not aware of it.

Senator MINCHIN—Presumably you would be aware of any written or oral representations that the minister had made to the Treasurer in accordance with his commitment to do so in that newspaper interview?

Mr Hartwell—Not necessarily so. Obviously the minister does have discussions with many of his cabinet colleagues, including the Treasurer, but, as officials, we are not privy to all of those discussions.

Senator MINCHIN—Do you acknowledge and accept yourselves that the industry is extremely concerned about the speculation surrounding this tax proposal?

Mr Hartwell—We are aware that there has been some analysis from various parties on this and there has been some public comments. We can only say to you again that the Henry tax

review, as the minister and secretary have indicated, is under consideration and presumably that issue is also under consideration.

Senator MINCHIN—In terms of Henry, while I think of it, Mr Clarke is not here, is he?

Mr Pierce—No.

Senator MINCHIN—I asked at the last estimates about the department's involvement in this review. I said I would like to know if you as a department had had any involvement in the Henry review. In the *Hansard* of that estimates—downloaded last year—Mr Clarke said, 'Yes, one of our officers from the resources division has been seconded to work in the secretariat and we have had a number of discussions' et cetera. I took that as confirmation that you have had an officer seconded. Interestingly, in the current *Hansard*, the reference to 'one of our officers from the resources division has been seconded to work in the secretariat' has gone. Fascinating. Could you explain to me the variance between the *Hansard* version, where it confirms, as I was witness to, the confirmation that one of your officers has been seconded and the absence of that from the current *Hansard*.

Mr Hartwell—I can attempt to answer that. When Mr Clarke gave that answer certainly he was aware that we had offered to second someone to the Henry tax review secretariat. As it turned out in the final outcome, while we on some issues did work closely with them, we did not actually second an officer.

Senator MINCHIN—Shouldn't the department have immediately informed the committee that the evidence given to the committee was incorrect rather than waiting for us to semi-discover it through a variance in the *Hansard*?

Mr Pierce—If you have the quote, possibly, Senator, but it was not just a simple case of our making an offer and that offer not being taken up. Alternative arrangements were made for an officer of this department to work on that tax review and provide input without a secondment. If we overlooked the transcript and were not as diligent in correcting it as we might have been I apologise for that.

Senator MINCHIN—It is a matter of the evidence given. I have the highest regard for Mr Clarke and it is no reflection on him at all, but if evidence is given to a committee—and it is significant if one of your officers was seconded to work on this review, which could well have very serious implications for the resources sector—and that evidence is then proved not to be accurate I think it is beholden on the department to inform the committee as soon as possible.

Mr Pierce—I accept that, Senator.

Senator MINCHIN—In the end, nobody was seconded. The review is complete, as I understand it. Exactly what was the nature of the relationship? Was it just responding to requests for information as required?

Mr Pierce—In the main, yes.

Mr Hartwell—Obviously when the Henry tax review secretariat were looking at the issues that would be relevant to the resources and energy sector, they came to us for advice in relation to various industry issues that are relevant to the resource and energy sector. Our knowledge of the sector was what they came to us for.

Senator MINCHIN—If I go too far, you will tell me to go and talk to Treasury. I accept this is a tax matter. There are questions about the constitutional basis for the application of such a tax onshore and whether or not it could replace royalties and there is speculation that it would. I presume you are not in a position to tell me whether the Commonwealth can stop the states collecting royalties in order to allow the Commonwealth to collect a resources rent tax.

Mr Pierce—I am not sure of the legal position and I doubt that would be the case. Harmonisation of tax bases is normally achieved through a process of cooperation between the jurisdictions. But that is, as you said, Senator, something that the treasuries discuss rather than anything that gets discussed with officers in this department.

Senator MINCHIN—Do you keep records on the royalty collections by the states? Is that a matter you collate?

Mr Hartwell—Not on regular basis, no.

Senator MINCHIN—Thank you.

Senator LUDLAM—Could we call the officers responsible for radioactive waste management? I will start with a general question. Please provide us with an update of the status of your work in progressing a national radioactive waste facility for Australia?

Mr Davoren—I am pleased to say, Senator, that we are actually drafting legislation to repeal the Commonwealth Radioactive Waste Management Act 2005 and replace it with other legislation.

Senator LUDLAM—Okay. The repeal bill is being drafted. Last time I asked that question, you had not proceeded to drafting. So when did that begin?

Mr Davoren—It began recently.

Senator LUDLAM—Is that days, weeks or months? What is recently?

Mr Davoren—Weeks.

Senator LUDLAM—So it was within 2010?

Mr Davoren—Yes.

Senator LUDLAM—Okay. Can you give us a broad outline of what the bill will do?

Mr Davoren—No I cannot, Senator. It amounts to, in effect, an unannounced cabinet decision. You will have to wait until the bill is actually tabled in parliament or when it is listed. I think there is a brief description of the scope of the bill that will come out then.

Senator LUDLAM—I am presuming that there will be.

Senator MINCHIN—Can you tell us when?

Mr Davoren—I think it is imminent. The fact that we have started drafting—we are well into drafting, so we hope—

Senator MINCHIN—This session?

Mr Davoren—Yes.

Senator LUDLAM—But you are not able to elaborate on the scope of the bill? Is it a simple repeal bill or is it a repeal and will it carry some other effect?

Mr Hartwell—As Mr Davoren has indicated, because we are in a legislative process it is still subject to the normal cabinet confidentiality restrictions that apply around all cabinet documents. We have indicated that drafting instructions have gone to parliamentary counsel, but while it remains in that drafting legislative process it is still subject to all the restrictions that apply around cabinet processes.

Mr Pierce—Including—ultimately it will be the government's decision as to when it seeks to introduce the bill. It is not something we are in control of or have anything to do it.

Senator LUDLAM—Have you concluded the balance of the work that you have been undertaking for the last year or two around site assessments characterisation and that kind of thing? Or is that work ongoing?

Mr Davoren—That work was completed some time ago. It was well and truly concluded last year.

Senator LUDLAM—There is nothing more you can tell us about the status of any of the original sites that were shortlisted under the former Howard government proposal—that work has all lapsed for the time being?

Mr Davoren—It has been completed, and I think the government will report on the status of those sites in the context of introduction of legislation.

Senator LUDLAM—Thank you. Can you tell us the status of recent movements of radioactive waste on Department of Defence land at Woomera in South Australia? I guess you would be aware that there was some reporting in the press, in the *Advertiser*, towards the end of January, about movement of a certain amount of radioactive waste on to a site there.

Mr Davoren—The defence department was consolidating some of its waste holdings. It had waste at RAAF base Edinburgh in a store there. It also had intermediate-level waste and low-level waste at Woomera, and it consolidated these two waste holdings in a disused building that was regarded as suitable for radioactive waste storage at the Koolymilka site near Woomera. The transfer of waste took place, I think, in December of last year and January this year. It took place under ARPANSA code for transport of radioactive materials. There were also the relative notifications in the media about that transfer. There was speculation in the *Advertiser* that call the Koolymilka may become the site for a national facility. I think, when you think consider the very small size of the building out there, that is a fairly unusual suggestion.

Senator LUDLAM—The speculation was unfortunately fanned, if you will, by your minister, who was quoted in the *Advertiser* as saying:

“We are completing the work started under the Howard government and (an announcement) is under consideration.”

and—

“There does need to be a permanent facility ...”

Is it the intention that that material will remain at the Woomera site in perpetuity? Or will it be eventually consolidated in a national store?

Mr Davoren—I think this depends on the nature of the government's decision. But I think successive Australian governments have looked at establishing a single site for low-level waste disposal and intermediate-level storage. So both of those waste types could be managed at such a facility, if that is the way the government goes.

Senator LUDLAM—Okay, but you cannot confirm at the moment whether that material may in fact remain there in perpetuity?

Mr Davoren—I think—

Senator LUDLAM—That is a policy announcement for the future?

Mr Davoren—I think it is unlikely, given the government's stated position of addressing the issue of radioactive waste management. I think the rationale for that is clearly that, rather than having over 100 stores all around Australia, it would have one purpose-built facility.

Senator LUDLAM—Was the site at Woomera considered or advised or part of your site characterisation for a final permanent repository for radioactive waste?

Mr Davoren—It was considered—the broad Woomera area was considered—in a systematic site selection process that was looked at in the 1990s.

Senator LUDLAM—And have you done any work in that regard since then, or is that the last time it was formally considered as a location for that store?

Mr Davoren—I think the last time it was considered was up to the legal action taken by the South Australian government against the then federal government in 2004.

Senator LUDLAM—So you have not been asked by government to undertake any further work in that regard—

Mr Davoren—No.

Senator LUDLAM—on that site—

Mr Davoren—No.

Senator LUDLAM—Or in that broader region?

Mr Davoren—No, we have not done any work at that site. We have responsibility for radioactive waste policy, but the actions out at Woomera were a matter between Defence, as the waste holder, and ARPANSA, as the regulator. We were simply informed of what they were doing.

Senator LUDLAM—Were you told afterwards like the public, or were you given some form of notification?

Mr Davoren—No, we keep a watching brief on Defence wastes. There are some wastes out there which are a quite significant part of the Commonwealth inventory. There are 10,000 drums of low-level radioactive waste from the former Fishermans Bend site in Melbourne, which forms a significant part of the Commonwealth's radioactive waste inventory.

Senator LUDLAM—Have you advised the government one way or another on what the final status of that material should be? You have said before that it is your expectation that it would eventually be consolidated, but have you provided advice one way or the other in that regard?

Mr Davoren—The waste holder is actually the CSIRO and the status of that waste is that it includes radioactive waste and some chemical waste. Any national facility or Commonwealth facility is for radioactive waste, so I think the CSIRO has some work to do in characterising that material. Under the policies of successive governments, I think it is fair to say that waste would be considered as material going to a central facility.

Senator LUDLAM—Thanks for that clarification; I am not sure you answered the question though. Have you provided advice to government or are you still waiting on more characterisation from CSIRO as to what the waste actually contains?

Mr Davoren—We have provided advice to government on that particular waste holding, but as we are awaiting announcements on the facility, it is probably a bit premature to be providing advice at this stage, considering how long a facility would take to establish.

Senator LUDLAM—Have you received correspondence from the National Audit Office seeking input regarding the marketing contract that was signed over the proposed site at Tennant Creek?

Mr Davoren—Yes, we have.

Senator LUDLAM—Have you entered into correspondence with the ANAO on that matter?

Mr Davoren—Yes, we have responded to them.

Senator LUDLAM—I am just going to change tack briefly and return to that in a moment. On 22 September 2008, your minister issued a statement announcing funding for the development of a national radiation dose register, which I think is probably a very good idea. Can you give us an update as to the status of that register, its costs and so on, and how far you are down the track of establishing it?

Mr Davoren—That does not fall within the responsibilities of my section.

Mr Hartwell—I can attempt an answer on that. The national dose register is one of the activities under the Uranium Industry Framework and in that context we have contracted ARPANSA to build a national dose register for those employees within the uranium industry who may have been exposed to radioactivity over the course of their employment to ensure that we have a regime which is of the highest order in the context of protecting the health and safety of the employees. You would need to get the precise details of the status of where that dose register is at this point in time from ARPANSA, but I can assure that it is well down the track.

Senator LUDLAM—Can you just clarify for us whose portfolio this resides within? Is it resources and energy or is it science?

Mr Hartwell—The issues around the development of our uranium industry lie within this portfolio, but we have contracted ARPANSA under the Uranium Industry Framework because of their expertise in this area to actually put together the dose register.

Senator LUDLAM—I have probably missed the opportunity to speak to them this time around, but can you tell us when the register is estimated to be up and running and when data will be loaded into it?

Mr Sheldrick—The development of the dose register database is largely completed at this stage by ARPANSA. There are a few issues that we are collectively working through around dealing with the ongoing funding of it and some collection and privacy issues, all of which are being dealt with with the expectation that it could be live early in this year.

Senator LUDLAM—When you say ‘issues around funding’ are you seeking some form of compensation or payment from the industry to help fund that register?

Mr Sheldrick—We are just looking at the options to provide ongoing funding. The funding that the department has been able to provide up to this date was used for the development of the database, but obviously a database like this will require ongoing funding.

Senator LUDLAM—Is that one of the options—seeking some contribution from industry?

Mr Sheldrick—We have not gone out with any options yet, but all the options are being considered.

Senator LUDLAM—I am sorry, that is a direct contradiction. Is that one of the options that you are considering or not?

Mr Sheldrick—We are considering a range of options. I am not suggesting that that is one that we would favour.

Senator LUDLAM—It is one of the options then? I am not trying to be sneaky. One of the options that is under consideration by you is that industry would contribute to the maintenance of that register?

Mr Sheldrick—It has been considered, but it is not an option that is currently on the table.

Senator LUDLAM—You have thought about it and you have ruled it out?

Mr Sheldrick—Pending other options.

Senator LUDLAM—Why am I finding this so difficult?

Mr Sheldrick—We are still in the process of working out the best way to do this. We do not have a position yet.

Senator LUDLAM—Obviously, legacy data is going to be the key issue here. I support the introduction of this mechanism. We have been calling for something like this for a long time because the problem obviously, as you are well aware, is with workers who spend a couple of years at Ranger and then go to Roxby and their records do not follow them from state to state. Will you be loading legacy dose data into the database from past employment of workers as much as that information is available from state health authorities? Is that the intention?

Mr Sheldrick—That is the intention. You would be best to ask ARPANSA about the detail of that, but that is one of the intentions—to try to get longitudinal data.

Senator LUDLAM—That is why you are starting to run into some privacy issues though presumably.

Mr Sheldrick—Yes.

Senator LUDLAM—I am not trying to give you a hard time. I think it is really important that that legacy data is in there. And then you would be cross-referencing records interstate for individuals?

Mr Sheldrick—The intention is for it to be a national database so that, if workers were to move from jurisdiction to jurisdiction, access to this sort of data would still be available.

Senator LUDLAM—Can you tell me—and I reckon this is a decision that would go back many years—why we have had uranium mining in this country since the late 1950s but it is 2010 and we are only just getting a national dose register for radiation workers up and running? Are you aware of the reason why it has taken 60 years for such a thing to come into being?

Mr Sheldrick—I am not aware of why that would be the case.

Senator LUDLAM—It is good that it is finally occurring. Just to be clear: you said you hope that this will be live before the end of this year. I forget whose comment that was, but that is the intention?

Mr Sheldrick—Yes. We are aiming for the early part of this year.

Senator LUDLAM—Will radiation workers outside the mining sector—say, if you spent time in the lab at Lucas Heights or are a hospital worker, for example—be required to submit radiation dose records to that database?

Mr Sheldrick—At the moment the database has been developed for workers in the uranium industry. Whether it can be applied to workers in other sectors is something we would like to consider, but at the moment it is being developed for uranium workers.

Senator LUDLAM—It is a long overdue initiative, so it is great that it is finally coming together and taking shape. I want to come back to where I was before regarding the radioactive waste management process. I missed the opportunity to question ANSTO on this today. What is your understanding of the volume and kind of material that you will be required to store in a national facility originating from the reactor building and components rather than the spent fuel, which is what most of the debate has been about?

Mr Davoren—From the HIFAR reactor?

Senator LUDLAM—Yes. I am aware that they are pulling apart the smaller reactor that was decommissioned in the mid-1990s. There is the HIFAR and eventually there will be the OPAL reactor as well. What is to become of all of that material?

Mr Davoren—The HIFAR was a reactor built in the fifties. That was not built in any way with the view of optimising the amount of radioactive waste produced at the end of its operating life. That will produce a significant amount of radioactive waste. It will add significantly to the national inventory of intermediate-level waste. It produces several hundred cubic metres of intermediate-level waste and a relatively small amount of low-level waste. They are the structural components of the reactor that were irradiated over a fairly long time. They are quite radioactive, and that is intermediate-level waste. The OPAL reactor is of course a modern design. I understand the amount of radioactive waste that will be produced is quite low, in the order of tens of cubic metres.

Senator LUDLAM—Is the intention with the core and whatever other components of the HIFAR reactor to cut them up and take them to the national store?

Mr Davoren—Yes, I think that has been the policy all along. It will be part of the national radioactive waste inventory when decommissioning starts.

Senator LUDLAM—When is it intended to start decommissioning the HIFAR?

Mr Davoren—I am not absolutely certain. I could take it notice, but a date of around 2015 seems to leap out at me.

Senator LUDLAM—You probably were not expecting me to take this tack, but how long and how well advanced are plans and proposals for that decommissioning process?

Mr Davoren—I think they have well and truly commenced discussions with ARPANSA, but it is really a question that you should direct to ANSTO.

Senator LUDLAM—That is fine. I missed the opportunity. Similarly, decommissioning proposals for the OPAL reactor at the end of his life—

Mr Davoren—It is 40 years away.

Senator LUDLAM—We would prefer it would be sooner, but that is the plan as it stands.

Mr Davoren—You are obviously not a user of nuclear medicine.

Senator MINCHIN—I trust you are never going to use nuclear medicine, Senator Ludlam.

Senator LUDLAM—You would be aware I have submitted a freedom of information request to your department requesting a fairly short list of documents that we have been discussing in these sessions for more than a year. We have been referred a charge of \$3½ thousand dollars for examination, consultation and decision making. I have not gone on a fishing expedition and asked for whole categories of documents that you may or may not possess. Why is the bill so high for somebody to pull those documents off a shelf and decide whether we can access them or not?

Mr Davoren—I think it relates to standard by-page rates that are set out in regulations to the Freedom of Information Act.

Senator LUDLAM—It is just as well I did not go on a fishing expedition. So it is about somebody reading every page of the document and then coming back and making a decision.

Mr Davoren—That is what I understand. I am not the officer handling that particular issue.

Senator LUDLAM—That is fine. I will leave it there. Thank you very much.

Senator MINCHIN—Mr Davoren, could you confirm that you have a single preferred site now for the waste repository?

Mr Davoren—No, I cannot confirm that. That is something that is central to what the government will announce. I expect it will announce it when it introduces legislation.

Senator MINCHIN—So the official position is that there are still several sites being considered as the preferred site.

Mr Davoren—I would not say that either. I think we had better wait until the announcement.

Senator MINCHIN—Either there is one site or there are several.

Mr Davoren—That is true.

Senator MINCHIN—Right, but you are not prepared to even concede the second.

Mr Davoren—No.

Senator MINCHIN—That is very responsible of you.

Mr Davoren—Thank you.

Senator MINCHIN—Could you confirm that the policy of the Howard government latterly was that only Commonwealth waste would go to the national repository because of the lack of cooperation of the states and that they would have to build their own repositories? Has that policy persisted? Is it the policy currently that this new repository will only take Commonwealth generated waste?

Mr Davoren—Once again, that is a matter for the minister's announcement. But I think he is on record as saying that he favours a national approach.

Senator MINCHIN—You think he is on record as saying he favours a national approach.

Mr Davoren—That is right.

Senator MINCHIN—Meaning—

Mr Davoren—A national facility.

Senator MINCHIN—you think he thinks that waste from all the state should be able to go to the national repository.

Mr Pierce—We might take that on notice, just to be sure.

Senator MINCHIN—I am happy for you to do that, but I would like that clarified.

Senator MILNE—I would like to get on to carbon capture and storage as quickly as I can, but before I do I want to ask a question about geothermal development, in particular the grants that have been made according to a press release about state and federal Labor support for a geothermal development at Gherang in the Geelong area in Victoria.

Mr Morling—There was a grant recently announced for Greenearth Energy Limited in Geelong, Victoria. That was a \$7 million grant under the geothermal drilling program. As we said, that was an announcement. We are now moving into the stage where we will negotiate a deed with that company for that grant.

Senator MILNE—Can you tell me what the grant is for—what the project is—and how that fits with community consultation about the project, environmental approvals for the project and all those sorts of things? Why is the company being given a grant if it has not gone through those processes?

Mr Morling—To start with your first question, the project itself will aim to drill two wells into a hot sedimentary aquifer to a depth of up to four kilometres. The objective of doing that is to assist the company in working up its project to a proof-of-concept stage. In terms of

other issues such as environmental approvals, it is early stages in the project and they are issues for the state government of Victoria.

Senator MILNE—What consultation, involvement or information has there been for the local community to let them know what is being proposed, what is going on and what the concept is that is being tested?

Mr Morling—In the case of the geothermal drilling program, it is not really possible to undertake consultation in advance of announcing the project, as a number of these companies are ASX listed companies. This is about providing money for the project to undertake the drilling. Those issues, such as environmental issues, to which you refer are really matters for the state government. I note that the energy minister in Victoria has stated today in the press that the project will be subject to the legislative requirements in Victoria and that consultation will be undertaken in each stage of the project.

Senator MILNE—Did this go to tender? Why did this company get this grant? How does it work?

Mr Morling—I will give broad outlines. Maybe one of the officers of the department can give you more detail. Essentially, this is a competitive grants program that was announced. The government then provided information to proponents about the eligibility and merit criteria. The proponents then put in proposals, which were considered by an independent geothermal drilling authority, which then made recommendations to the minister. They made recommendations for two rounds. In the first round two companies were chosen. In the second round five companies were chosen, including Greenerath.

Senator MILNE—And what is the time frame on proving the concept?

Mr Morling—I do not have an exact time frame. That will be part of the negotiations to settle the final details with the company and come to a finalised funding deed.

Senator MILNE—And whose responsibility is it to inform the community about what is going on? I have had quite a lot of correspondence saying that people have no idea what is going on. They are very concerned that the first they heard of it was a federal government grant to this company.

Mr Morling—It depends on the subject heading, but most of the issues around which the community has concerns would, I imagine, be dealt with either by the state government under its legislative requirements or by the company itself, which is seeking to progress the project in that community.

Senator MILNE—I understand the company has made the claim that the community has given its unanimous support to the project, and yet the community knows nothing about it and there has been no formal consultation. Minister, is it a matter of concern to you that the community is saying this is the first they have heard about it while the company is saying it has the unanimous support of the community?

Senator Carr—I think the officers have explained to you the relationship between the company, the stage government and the local community. There really is not much more that I can add to that. It is a matter of the way the Victorian government is approaching this matter.

Senator MILNE—Except it is federal government money that is making it all possible.

Senator Carr—The Commonwealth is providing support for this project, but specific questions that relate to the Victorian government's involvement in the project are matters for the Victorian government.

Senator MILNE—And is this an area that was determined to be highly prospective in the geothermal technology industry development framework and mapping and so on, and are those maps available to the community to know where in Australia they can expect this kind of exploration work?

Mr Morling—This sort of question would probably be better directed to Geoscience Australia. I have seen those maps put up at industry conferences. In terms of the prospectivity on this particular site, companies have to seek tenements over these particular sites so they would have made that judgement, and that would have been one of the considerations that the board that made the recommendation to the minister took into account when recommending that this company's project receive funding.

Senator MILNE—Who is on that board?

Mr Pierce—I am happy to take on notice the availability of those maps that you refer to and the geological information. If we are able to do so, will direct you to where that information can be found.

Senator MILNE—Okay—I just wanted to know who was on the board. Can you take that on notice. I would like to move on to the Global Carbon Capture and Storage Institute. It has been allocated \$100 million a year, I understand, and it is meant to be supporting 20 industrial scale projects around the world by 2020. I understand that you have moved into your own office and recruited staff and so on, so I just want an update on how many staff are now employed and what progress there has been. Are we still expecting to get 20 industrial scale projects by 2020?

Mr Hartwell—As you may be aware, the Global Carbon Capture and Storage Institute has been established as a not-for-profit corporation under Australia's Corporations Law. It came into existence from July 1 and, while this portfolio has a funding agreement of \$100 million per annum, as you rightly indicate, the process going forward is that they have their own board and, in a sense, we are not in a position to comment in detail about the number of people they have working in the institute nor, given the relationship that has been set up, can we comment in detail on the work program. Obviously the Australian government is one of the legal members of Global Carbon Capture and Storage, and we have that funding agreement and we understand that their early work has focused on producing an assessment of the status of global carbon capture and storage projects throughout the world using the auspices of Worley Parsons. They have also commissioned some work along the lines of what might be an ideal portfolio in terms of taking forward the commercial deployment of carbon capture and storage and so forth. We can answer in broad terms, but it is now a not-for-profit operation under Australian Corporations Law.

Senator MILNE—Are you saying that the parliament has no scrutiny over their \$100 million?

Mr Hartwell—There is; we have a funding agreement which imposes certain milestones and through this portfolio we do exercise some control and discretion. But, broadly, they do have their own independence.

Senator MILNE—So we are making a \$100 million grant. Tell me where I am able to question anybody about this institute.

Mr Pierce—If you have questions specifically about the institute we are happy to try to answer them now. If it is a level of detail that we do not have, then we are happy to take it on notice. We are aware of the broad headings of their work program, the detail of how they are progressing that today. There will be regular reporting and updates from the institute back to us as part of the funding agreement.

Another piece of work is that we are trying to develop a common standard for what carbon capture and storage really means for people in the power sector—I do not know if Kathy can elaborate on that. We are not avoiding anything here. It is just that, given the institutional arrangements and the desire to have this institute as a truly international one with other governments funding it, they are outside the department and our relationship with them is a contractual one. We are happy to take the questions; if we can answer them we will but if they are about a level of detail that we do not have then we will take them on notice and see if we can answer.

Senator MILNE—You said that there are regular six-monthly updates on what is going on; are they going to be public?

Mr Pierce—Sorry, I said there would be regular reporting. Whether that is six-monthly or quarterly I am not sure.

Ms Harman—There is regular reporting. There is a funding agreement which sets out a particular work program, and it is at quite a high level. It is a new institute and the sort of work they are undertaking is that they take advice and liaise with the full range of members about what the best way forward is to actually progress carbon capture and storage issues and to make sure that they can meet their mandate of getting 20 projects up by 2020.

Certainly, the level of information in there would provide detail on the sorts of things that Mr Hartwell has outlined in terms of the sorts of reports that they produce and the sorts of capacity-building activities or general project work they undertake. If you were interested in getting information on a more regular basis, they have a website where they put up quite a lot of information. The intent of this institute is to have information sharing at its very core. When they actually undertake work they very much try to make that information available.

Senator MILNE—I appreciate the fact that they have got a website, but from our point of view \$100 million is a lot of taxpayers' money and it would be useful to be able to ask them what they are doing rather than just what they are prepared to share on their website. Will that WorleyParsons report be made public and, if so, when?

Mr Hartwell—The WorleyParsons report is already out there in the public domain, as is the L.E.K Consulting report that I referred to. A lot of the other activities of the Global Capture and Carbon Storage Institute are on the website. We can certainly make available to you the material that is being produced by that institute.

As the secretary indicated, this institute has a very large international membership now, spread across governments, industry, NGOs and a number of research institutes as well. The last time I looked there were approximately 160 members. The deliberations of the institute are quite transparent; you can access quite a lot of material.

Senator MILNE—Thank you. I just take up your point about carbon capture and storage ready: Premier Bligh announced a new coal fired power station for Queensland and said it was carbon capture and storage ready. What is the definition of carbon capture and storage ready?

Mr Pierce—In general terms, as the word implies, it is when you actually construct the plant so that the technology can be introduced without modifying what you have already built, which is quite different to retrofitting plant. But in terms of technical specifications, I cannot comment on what the premier had in mind.

I am aware through the people that the institute deals with that they are trying to develop detailed technical specifications to be used as a standard, which obviously then helps with the extent to which this progresses. It helps with minimising the cost of tendering for these sorts of projects for those who are going to build them. It is just an industry standard—

Senator MILNE—Would you please take it on notice to establish for me what ‘carbon capture and storage ready’ means in relation to a new coal fired power station in Queensland?

Mr Pierce—We can certainly try and find out for you how the Queensland government has specified that.

Senator MILNE—Thank you. I would appreciate that. Finally, where are we up to with the four Commonwealth carbon capture and storage projects under the CCS Flagship Program, the \$2 billion?

Mr Bartwell—As you would be aware, since the announcement of that program we have issued program guidelines and gone through a competitive selection process using an independent assessment panel. We are working with technical advisers, Parsons Brinckerhoff. That led to the announcement of the short-listing of the four CCS projects: two in Queensland, one in Western Australia and CarbonNet, which brings together a number of CCS projects in Victoria. Since that time, we have been working towards a funding agreement with each of those projects so they can complete pre-feasibility studies by 30 June. That will then come back to the government to make some final selections under its CCS Flagship Program.

Senator PRATT—I will only pursue some of my questions. I note that next week applications close for the Solar Flagships Program and I note that this program is looking at large-scale grid connected solar power sources. As you would well understand, often the electricity grid is better served by dispersed energy across the grid. I just want to clarify whether the benefits of a dispersed energy grid were taken into account with the bids coming in through this program and that the possibility of a single bid being in a number of locations was taken into account.

Mr Pierce—Yes, the program allows for a single bid which has a number of solar projects distributed at different sites—that is certainly the case. But through this particular program, as

distinct from other programs the government may be running in other portfolios, one of the objectives is that these particular solar projects are grid connected. In a sense, it is trying to demonstrate that this technology can be introduced into the grid in a similar way to the way the industry has thought about traditional generation projects. It is about seeing to what extent this sort of technology can be seen as a substitute for the traditional technologies. In that sense, it is about whether what would traditionally be seen as the supply side of the industry are able to take up these technologies and make them work, not just in a technological sense but in the sense of making them work within their businesses. The rooftop-type solar programs are obviously in a different bucket and in a different portfolio. The government has different programs for that. Whilst they can be distributed in different places, we expect them to be reasonably large—I think in the order of 30 megawatts or so.

Mr Morling—I have one clarification. The photovoltaic project can be split over five sites.

Senator PRATT—Okay. I had other questions, but my last is to ask about progress on amending Australia's electricity rules to enable more renewable power sites to enter the grid. I know that progress is underway, but I would like you to report to me on how it is going.

Mr Pierce—We will take that on notice.

Senator PRATT—Thank you.

Senator McGAURAN—Following on from Senator Milne's expose of the Global Carbon Capture and Storage Institute and its seeming utter lack of accountability for \$100 million, I see we have had another institute established, the Australian Solar Institute. In the time given, I will ask these questions: what are the mandate, nature and structure of the Australian Solar Institute; what is the accountability of its \$100 million; how much has been spent and on what projects has it been spent, and what is the check and balance of the Australian Solar Institute? It strikes me we are setting up a lot of institute—whatever that is—with a lack of accountability. That is another \$100 million just being thrown out there. I leave those questions on notice because of time. I think we have uncovered a lot of climate change expenditure being sloshed around and, yet again, wasted.

Mr Pierce—We are happy to take that on notice.

Senator XENOPHON—My questions relate to the Maralinga test sites and the Maralinga clean-up. When the Keating government signed a treaty with the UK government in 1993 accepting £20 million compensation for British atomic tests, it was clear that the fund was to be used for remediating land and compensating veterans. Why is it that none of the £20 million has found its way to the victims yet?

Mr Davoren—The 1993 settlement was clearly related to the rehabilitation of the test site. It was not in relation to compensation of veterans.

Senator XENOPHON—Notwithstanding what was on the *Hansard* at the time? Notwithstanding that there is a clause in the treaty that says that if there is compensation paid to veterans, it needs to be repaid back to the British government?

Mr Davoren—There is an indemnity arrangement where the Australian government indemnifies the UK government against claims by Australian test participants against the UK government. There is a reverse provision. The UK government indemnifies the Australian

government. This is all in the context set out in a 1956 agreement between Australia and the UK where both countries agreed to take responsibility for their service test participants. The media releases that came out at that time—which we could provide to you—and the context of the negotiations make absolutely clear that that amount of £20 million was for rehabilitation of the land.

CHAIR—We have to move on. Senator Xenophon, can you put any further questions on notice.

Senator XENOPHON—Yes, I will.

CHAIR—Thank you to the minister and to the Department of Resources, Energy and Tourism for your assistance tonight.

[9.04 pm]

TREASURY PORTFOLIO

Consideration resumed.

In Attendance

Senator Sherry, Assistant Treasurer

Department of the Treasury

Dr Ken Henry, 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 Damien Dunn, General Manager, Macroeconomic Modelling Division

Mr Robert Ewing, Manager, Macroeconomic Modelling Division

Outcome 2: Effective Government Spending Arrangements

Output Group 2.1: Fiscal Group

Mr Nigel Ray, Executive Director

Ms Peta Furnell, General Manager, Social Policy Division

Mr Peter Robinson, Principal Adviser, Social Policy Division

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

Mr Russ Campbell, Principal Adviser, Industry, Environment and Defence Division

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

Ms Jan Harris, General Manager, Budget Policy Division

Ms Luise McCulloch, Principal Adviser, Budget Policy Division

Mr Jason Allford, Principal Adviser, Budget Policy Division

Ms Sue Vroombout, General Manager, Commonwealth-State Relations Division

Ms Deidre Gerathy, General Manager, Corporate Services Group

Mr Robert Donnelly, Chief Financial Officer, 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 Michael Willcock, General Manager, Personal and Retirement Income Division
Ms Christine Barron, Secretary, Board of Taxation and General Manager, Indirect Tax Division
Mr David Hazlehurst, General Manager, Tax System Division

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 Vicki Wilkinson, Principal Adviser, Corporations and Financial Services Division
Ms Marian Kljakovic, Manager, Corporations and Financial Services Division
Mr Bede Fraser, Manager, Corporations and Financial Services Division
Mr Mark Sewell, 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 Patrick Colmer, General Manager, Foreign Investment and Trade Policy Division
Mr Frank Di Giorgio, Principal Adviser, Foreign Investment and Trade Policy Division
Mr John Lonsdale, General Manager, Financial System Division
Ms Jacky Rowbotham, Manager, Financial System Division
Mr Justin Douglas, Manager, Financial System Division
Ms Kanwaljit Kaur, Manager, Financial System Division
Mr Roger Brake, Manager, Financial System Division
Dr Steven Kennedy, General Manager, Infrastructure, Competition and Consumer Division
Mr Brad Archer, Manager, Infrastructure, Competition and Consumer Division
Mr Bruce Paine, Principal Adviser, Infrastructure, Competition and Consumer Division
Mr Andrew Deitz, Infrastructure, Competition and Consumer Division
Mr Paul McBride, Principal Adviser, Cities and Housing, Infrastructure, Competition and Consumer Division
Mr Paul Madden, Program Director, Standard Business Reporting Management Group
Mr Greg Divall, Program Manager, Standard Business Reporting Management Group
Ms Megan Bonny, General Manager, Stakeholder Management, Standard Business Reporting Management Group
Ms Helen Austin, General Manager, Chief Solutions Architect, Standard Business Reporting Management Group
Mr Geoffrey Turner, General Manager, Core Services Team, Standard Business Reporting Management Group
Mr Peter Martin, General Manager, Australian Government Actuary
Mr Michael Burt, Senior Adviser, Australian Government Actuary
Ms Susan Antcliff, Senior Adviser, 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, Assistant Statistician, Office of the Statistician

Mr Paul Lowe, Assistant Statistician, Population Census Branch

Mr Michael Belcher, Chief Financial Officer

Ms Janet Murphy, First Assistant Statistician, Corporate Services Division

Mr Ian Ewing, Deputy Australian Statistician, Macroeconomics and Integration Division

Australian Office of Financial Management

Mr Neil Hyden, Chief Executive Officer

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 John Trowbridge, Member

Mr Keith Chapman, Executive General Manager, Supervisory Support

Mr Senthamangalam Venkatramani, General Manager, Central Region

Australian Taxation Office

Mr Michael D'Ascenzo, Commissioner of Taxation

Mr David Butler, Second Commissioner

Mr Bruce Quigley, Second Commissioner

Ms Jennie Granger, 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

Mr Greg Medcraft, Commissioner

Mr Michael Dwyer, Commissioner

Mr Justin Owen, Manager, Government Relations

Ms Kate Harvey, Senior Executive Specialist, Communications

Mr Barton Hoyle, Research Adviser to the Commissioner

CHAIR—We are now resuming consideration of the Treasury portfolio. I remind witnesses that the committee has set Thursday, 1 April 2010 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. I particularly 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. This order was incorporated in *Hansard* at the start of today's proceedings.

The committee will begin consideration of the Treasury portfolio with the Revenue Group and the Australian Taxation Office 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, do you have an opening statement you would like to make?

Senator Sherry—No, I do not have anything.

Senator JOYCE—Have you seen the Henry tax review yet?

Senator Sherry—Are you asking me?

Senator JOYCE—I am asking the revenue group.

Mr Parker—Yes, the revenue group was involved in the secretariat to the panel that wrote the Henry report.

Senator JOYCE—Were any people from your department involved with the review of the Henry tax review?

Mr Parker—Indeed.

Senator JOYCE—Were the people who were involved with the review of the Henry tax review the same people who were also involved in the writing of the Henry tax review?

Mr Parker—Yes.

Senator JOYCE—So the people who wrote it were also the people reviewing it?

Mr Parker—I did not pick up the subtlety of your question the first time through. But yes, there is an overlap of people involved in the secretariat and the people involved in revenue group who are in the process of providing advice to the government on the response to the Henry review. The way the secretariat was set up to support the panel in the writing of the review involved a collection of people from across the department, a number of people from revenue group within Treasury and a number of people from other departments brought together to form a secretariat. That secretariat has now dissolved and the relevant people have gone back to where they were or to elsewhere, including back into revenue group.

Senator JOYCE—Are there any people involved with the review of the Henry tax review who were not involved with the writing of the Henry tax review?

Mr Parker—There are a substantial number of people in Treasury working on the advice to the government on the response to the Henry tax review who were not part of the secretariat that supported the panel. But obviously the panel consulted very broadly with the rest of the department.

Senator JOYCE—Did these people who were not involved have prominence? Are they senior officials?

Mr Parker—Well, I am one of them.

Senator JOYCE—You are senior, David.

Mr Parker—I was not on the secretariat, although I was obviously closely involved in their work.

Senator JOYCE—So you had input into the writing of the Henry tax review?

Mr Parker—I was consulted in part of the process which worked on the review, yes. That is right.

Senator JOYCE—And you were also involved with the response to the review?

Mr Parker—That is right.

Senator JOYCE—Do you think it is a little bit peculiar having the same group of people who wrote it also reviewing it?

Mr Parker—Not particularly, no.

Senator JOYCE—Do you find it hard to be critical of yourself?

Mr Parker—If that is a personal question to me, then no, I do not find that difficult.

Senator JOYCE—Have you found anything that you have written that you thought, ‘By gosh, we were wrong writing that—I’ve got to change it’?

Mr Parker—Are you talking particularly about the Henry review or are you talking—

Senator JOYCE—Within the review. Was there anything that made you think: ‘Golly gosh, I can’t believe I would say something so crazy. I must change it now’?

Senator Sherry—I think that is going to much more of a personal question, as distinct from—

Senator Pratt interjecting—

Senator Cameron interjecting—

CHAIR—Senators, I am sure we have a lot to get through this evening and I do not think we need interjections.

Senator JOYCE—Senator Cameron, do you notice that we are actually quiet when you ask questions?

Senator CAMERON—‘Oh golly gosh, I wish I hadn’t said that.’

Senator JOYCE—There’s the brains trust of the Labor Party over there.

Senator CAMERON—Look who is talking about a brains trust.

Senator Sherry—Anyway, Chair, I believe the question is in the nature of requesting a personal response. It is not appropriate.

Senator JOYCE—Did the revenue group leak the information about the resource tax?

Mr Parker—Well, the preparation of the Henry review has been a very public process. There is any amount of statistics which I could provide you with about consultations and so forth, speeches that were given and the likes. There is a very substantial amount of material that was put out in the process of the preparation of the report.

Senator JOYCE—Are you confident that your department did not leak the material about the resource tax?

Mr Parker—Are you referring to a particular incidence?

Senator JOYCE—I am referring to the stuff that is obviously now in the public domain, and I want to know whether you are confident that your department did not leak that section out to the media?

Mr Parker—I myself gave a speech on the matter to the Minerals Council taxation conference.

Senator JOYCE—And you were advised that you had the liberty to disclose what was in the Henry tax review in regard to resource tax?

Mr Parker—It was a speech on the economics of the taxation of natural resources.

Senator JOYCE—And you acknowledged in that speech that that was in the Henry tax review?

Mr Parker—It was a matter being considered in the review, and the fact that that issue was in the review is on the public record.

Senator JOYCE—And the detail that is in the public domain at the moment is the extent of the detail that you delivered in that speech?

Mr Parker—I have to say that much of the detail that is in the public domain at present is speculative.

Senator JOYCE—So it is not correct?

Mr Parker—Well, we will have to wait to see when the Henry review is released as to—

Senator JOYCE—You have just said it is ‘speculative’, which would seem to indicate that you believe it is not correct?

Mr Parker—No, I did not say that it was correct or not correct; I just said that it is based on speculation from a number of parties.

Senator JOYCE—From a number of parties—what parties?

Mr Parker—There have been a number of statements by people in the minerals industry suggesting a variety of consequences of the imposition of a tax. They have made a number of claims. Obviously they have had to have a view about what the tax would look like in order to make those claims.

Senator JOYCE—So you were involved with the drafting of the Henry tax review, you are involved with the response of the Henry tax review, you have given us a speech to the Minerals Council on the Henry tax review, but you state that what is in the public domain is speculative?

Mr Parker—As I said, there has been a range of information which has been put out in the process of preparation of the Henry tax review. The review is presently within the government, and the government is considering its response to it.

Senator Sherry—The process that Mr Parker has outlined is not unique to Mr Parker. If you look at the process of the Henry review—and this is quite public—there were a significant number of public consultations, where members of the review panel, either collectively or individually, gave presentations on particular matters and particular issues, and

much of that was reported speculatively in the public domain, in terms of what the Henry review may or may not do. There have also been a number of speeches by various officials from Treasury—for example, Dr Henry. He certainly gave a number of speeches. And I am aware of other Treasury officials who gave speeches in public forums. It was a very, very open and public consultation process of extraordinary depth and magnitude. I think it is inevitable that, when you have an open consultation process such as I have outlined and Mr Parker has outlined, you will get speculation. I have looked back at previous reviews, including under the former government, and inevitably there is a level of speculation about outcomes. That is what we have seen, and frankly that has not surprised me.

Senator JOYCE—I will direct the question to you, Minister. Are you stating categorically, therefore, that there has been no instruction from the government on the leaks that are in the public domain?

Senator Sherry—Certainly I am not aware of any. None at all.

Senator JOYCE—There is no program or process of deliberately leaking certain information into the public domain?

Senator Sherry—I have already made my comment quite categorically. I am not aware of any such process at all.

Senator JOYCE—So you are saying that everything that is out there is either speculative or has been surreptitiously leaked by parties which have broken the confidence of the Henry tax review?

Senator Sherry—No, I have outlined the process and what I believe is a significant level of speculation. I just do not have anything further to add to that which has occurred.

Senator JOYCE—Mr Parker, can you give me an example of the outline you gave to the Minerals Council in your discussion about the resource tax?

Mr Parker—The essence of a speech was to reflect on the submission that the Minerals Council made to the Henry review—one of over 1,500 submissions that were made to the review, incidentally—wherein the Minerals Council put a view to the panel that the present structure of resource taxation in Australia was inefficient and, in particular, that the resource royalties levied by the states predominantly were inefficient and were acting to constrain activity in the sector. The Minerals Council suggested in its submission that it would be preferable to move to a profits based taxation arrangement in replacement of royalties. My speech essentially said the economics of that argument is right and ran through some of the economics of how conceptual resource rent tax as could be applied in the sector in a way which would be superior to royalty arrangements.

Senator JOYCE—In this conceptual arrangement, would that mean the removal of the state directly charging for the royalties—in this conceptual view as delivered to the Minerals Council?

Mr Parker—I am not sure what you mean by the state correctly charging the royalties.

Senator JOYCE—No, not correctly; the state charging. In this conceptual view that was presented in this discussion between you and the Minerals Council, did the states charge

royalties in the future? Or was that all now, in their conceptual view, collected by the federal government?

Mr Parker—What was discussed in the speech was a comparison of a world where you have royalties with a world where those royalties are replaced by a resource rent tax.

Senator JOYCE—Who would administer the resource rent tax?

Mr Parker—That would be a matter to be decided if the government were to accept that recommendation to go down that path.

Senator JOYCE—Did they suggest that the Commonwealth government should administer that resource rent tax?

Mr Parker—Did they suggest?

Senator JOYCE—Yes.

Mr Parker—The Minerals Council?

Senator JOYCE—Yes, in that conceptual discussion.

Mr Parker—I do not recall the precise position of the Minerals Council in their submission on that point. One of the dimensions to this—and I suspect that this might be where you are heading with your question so if I might cut to the chase—

Senator JOYCE—Please do.

Mr Parker—I imagine you are asking a question as to the constitutionality of taxes at different levels of government.

Senator JOYCE—I certainly am.

Mr Parker—Under the present constitutional structure, resources which are below the surface of the ground belong to state governments and they impose a charge under the royalty regime for the extraction of those resources. That is the present—

Senator JOYCE—Ad valorem or profit base, yes.

Mr Parker—Most of them are ad valorem, of course. Therein lies the inefficiency of such royalties, because a tax can be imposed on the extraction of the resources even though the person extracting the resources is not earning a return after the costs of extraction. That is the economic inefficiency of the resources.

A resource rent tax, as it is structured in the literature, in a number of places, tends to be structured as a tax on a profit-making activity and so it is not a direct tax on the extraction of the resource, it is a tax on the profit arising from the extraction of the resource.

Senator JOYCE—A good place to administer that tax, with the oversight of an ad valorem tax, I imagine, would be the taxation department.

Mr Parker—The choice at what level that would be done is a policy choice.

Senator JOYCE—Have you discussed with Queensland or Western Australia that they are about to lose their royalties?

Mr Parker—I think the premise of the question goes into the policy decisions, which are yet to be made.

Senator JOYCE—You do not seem too emphatic in denying that, Mr Parker.

Mr Parker—I am just saying that the premise of the question is asking me to stray into territory that I am not supposed to.

Senator Sherry—Levels of emphasis do not constitute yes, noes, maybes, therefore, whatever, Senator. They might to you but they do not to anyone else.

Senator JOYCE—I am sure the people of Western Australia are going to be reading in the paper tomorrow morning that it is going to be an interesting place in Western Australia when the eastern states finally take their royalties off them.

Senator Sherry—They have been reading a lot in the press about the stories you make up on a daily basis, Senator Joyce.

Senator JOYCE—This conceptional resource rent tax—would there be the capacity for it to administer from a state level?

Mr Parker—I do not see any constitutional barrier for that.

Senator JOYCE—I am talking about an administrative barrier—

Mr Parker—I do not see any administrative barrier either.

Senator JOYCE—to set up their own taxation departments.

Mr Parker—They have revenue offices now.

Senator JOYCE—We will just extend those to an ad valorem based assessment process, would we?

Mr Parker—To a profits based assessment process.

Senator JOYCE—The conceptual framework as discussed with the Minerals Council—they were quite happy with the states to administer it?

Mr Parker—We did not get into a discussion about the practicalities of implementing what the Minerals Council had suggested in their submission.

Senator JOYCE—Does it surprise you the amount that is in the public domain about the Henry tax review?

Mr Parker—I am not surprised that it is a matter of intense public interest.

Senator JOYCE—Yet you have no knowledge whatsoever about any motive or direction by the government to leak specific—

Senator Sherry—The witness has already answered the question, Senator Joyce.

Senator JOYCE—Of course you are aware with that sort of information, if that was a company, it would be a criminal offence. You are aware of that. I know it is not for you but if a company did the same thing it would be a criminal offence.

Mr Parker—If a company did what, Senator?

Senator JOYCE—To selectively leak information out piece by piece by piece so as to affect the market and basically affect the wealth of people by the selective leaking of certain information which affects the market's movements.

Senator Sherry—Matters relating to the Corporations Act are matters for the markets group and/or ASIC.

Senator JOYCE—Did you go to any conceptual discussions about fringe benefits tax?

Mr Parker—Did I go to—?

Senator JOYCE—Have you been involved with any conceptual discussions about fringe benefits tax similar to conceptual discussions about resource rent tax?

Mr Parker—The Henry tax review essentially asked the panel to look at the design of the overall tax system, so it looked at the whole thing including the fringe benefits tax.

Senator JOYCE—Have you been involved with discussions in open forums about fringe benefits tax?

Mr Parker—I personally have not.

Senator JOYCE—Do you know of anyone who has been involved in open forum discussions about fringe benefits tax?

Mr Parker—I am certain that the matter has come up in one of the many public meetings that were held. There were, as I understand it, more than 200 meetings held between the secretariat, the panel and the business community in open public forums and so forth. I would be astonished if the issue of fringe benefits tax did not come up but I am not personally aware of it because I was not involved in those meetings.

Senator JOYCE—You are aware of the concerns that have been brought about, especially by such people as Catholic Health, on what is in the public domain and the affect that will have on their revenue stream and on their capacity to pay their staff?

Mr Parker—I am not personally aware of that, no.

Senator JOYCE—Did you watch *Inside Business* last Sunday?

Mr Parker—No, I did not.

Senator JOYCE—Do you think it would be an awfully good coincidence if the things that are in the public domain actually were in Henry tax review?

Mr Parker—I am certain that there will be a quite considerable degree of correspondence between a whole range of matters which have been discussed in the public domain and which are in the Henry review because of the public process. It is not a secret.

Senator JOYCE—It is not a secret?

Mr Parker—The fact that the Henry review has been taking place and there has been broad consultation has not been a secret process.

Senator JOYCE—So what is out there and is being discussed is not a secret; it is the truth?

Mr Parker—No, I am saying that it has been a very public process about what has been the broad scope of issues discussed and considered by the Henry panel. The government has that report at the moment. It is considering its response and there has been, as a result of the

process, an intense public debate about tax matters going back pretty much all the way to the budget of last year when the Henry panel was announced.

Senator JOYCE—So we should just put it down to a marvellous coincidence if what is out there in the public domain is actually in the Henry tax review. It is in no way a leak or a direction or a tactic. It is just coincidence. It is just that some of the people who are in the public domain got it right.

Senator Sherry—That would be the third time you have rephrased the question and it would be the third time we have answered that question.

Senator JOYCE—I just find it unbelievable and we cannot get a straight answer—

Senator Sherry—We have given you a straight answer three times to the same question phrased differently.

Senator JOYCE—Your answer was that there was no direction from government, Minister. You are on the record; you have said that.

Senator Sherry—I am not going to answer questions three times—

Senator JOYCE—You did answer it.

Senator Sherry—I have answered the question, as has Mr Parker. My response is on the record and on the *Hansard*.

Senator JOYCE—You have answered it. You said there was no direction from government. Mr Parker said there was no direction from the revenue group. That narrows it right down, so it is going to be very interesting and obviously someone has got their hand right on the hotplate if that is not right.

Mr Parker—Can I just add to an answer that I gave before, because it has been pointed out to me by one of my colleagues that the Henry tax review is not the only process that is looking at a range of tax issues. The Productivity Commission is currently conducting an inquiry into the not-for-profit sector. It put out a discussion paper in October and that included a number of tax matters related to the not-for-profit sector.

Senator JOYCE—So it could have come from the Productivity Commission?

Mr Parker—The matter is being publicly discussed because of a number of reports which have been put out there.

Senator Sherry—I think you were at the Productivity Commission evidence earlier today. The draft report of the Productivity Commission on gambling touches on revenue, charges and tax issues as part of that report. There have been a number of process that quite directly touch on tax issues. Notwithstanding the Henry process and notwithstanding other processes, there is invariably commentary—in fact I cannot think of a week that has gone by in my 19 years in this place when there has not been some—about a tax matter in one of the newspapers in this country. Not a week goes by without speculation on a tax issue of some sort or other.

Senator JOYCE—It is just speculation, not tactics. It is just a marvellous coincidence. It is just the Productivity Commission. It is just open forums. I will bet London to a brick that it actually is in the Henry tax review. Do you acknowledge that changes to the fringe benefit

would have an immense effect on such things as not-for-profit organisations? Would you agree with that statement?

Mr Parker—That would depend on what changes were made.

Senator Sherry—It is a matter of policy for the government to determine. We are not going to speculate on this impact or that impact. I suggest you wait until the Henry tax review is released and the government makes its public response.

Senator JOYCE—How long would I be waiting for that?

Senator Sherry—We are not going to speculate.

Senator JOYCE—You are not going to speculate on when you are going to release this report?

Senator Sherry—No, I am not going to speculate on the contents, outcomes—

Senator JOYCE—Are you going to release it this year?

Senator Sherry—I would have to check the public record of the Treasurer, but in the earlier part of this year. That is not a direct quote but certainly I think that it is the earlier part of this year.

Senator JOYCE—That is before April?

Senator Sherry—It stands as I have said. I do not have anything else to add.

Senator JOYCE—When does the earlier part of this year become the middle of this year?

Senator Sherry—I still feel in the earlier part of this year at the moment, I have to say, but I am not aware of a definition of what is the earlier part of this year other than I sense at the moment that we are still in the earlier part of this year. So it will be released in the earlier part of this year.

Senator JOYCE—Not in the middle of this year but the earlier part of this year?

Senator Sherry—I think we could probably get into a fairly esoteric discussion here about when is the middle of the year. I think we could reasonably conclude that the middle of the year would be around June-July. So I think that we could reasonably conclude that it will be before June. I think that that would be a reasonable conclusion.

Senator JOYCE—So May is the earlier part of this year?

Senator Sherry—I am not aware that there are published definitions of the earlier part of the year or the middle of the year. We could debate this for some time, I suspect, Senator Joyce. As I have said, the Treasurer has said the earlier part of this year—and that is not a direct quote.

Senator JOYCE—I wondered whether the speculation about the earlier part of this year was that it might not be as concise as what is in the Henry tax review.

Senator Sherry—That is as definitive—

Senator JOYCE—It seems that answering what is the earlier part of this year is a far harder question than answering a question about where the leaks came from.

Senator Sherry—I am more than happy, Senator Joyce, to take on notice for the Treasurer a definitional response to what is the earlier part of the year.

Senator JOYCE—How many pages in the Henry tax review?

Senator BUSHBY—We will have that by estimates in June.

Senator Sherry—Are estimates scheduled for May or June this year?

Senator BUSHBY—Late May and June.

Senator Sherry—So coming up to the middle of the year.

Senator BUSHBY—We get the answers to that question a week before.

Senator Sherry—Anyway, I will take it on notice.

Senator JOYCE—How many pages in the Henry tax review?

Senator Sherry—The exact words from the Treasurer's press release are to release it in 'early 2010', and I would certainly argue it is early in 2010 still. We are still in that phase of 'early'.

Senator JOYCE—How many pages in the Henry tax review?

Mr Parker—I do not have that number in my head.

Senator JOYCE—A thousand?

Mr Parker—I think that it is probably fewer than a thousand.

Senator JOYCE—Why is it so hard to get through fewer than a thousand pages of a document that was released before Christmas?

Senator Sherry—The document has not been released.

Senator JOYCE—The government got it before Christmas. It was delivered to you before Christmas.

Senator Sherry—That is right.

Senator JOYCE—Why is it so hard to get through it?

Senator Sherry—It was delivered just prior to Christmas. Christmas-New Year is a holiday period of varying length for various people. As the Treasurer has indicated, it will be publicly released in early 2010.

Senator JOYCE—It is not as if they have to read it—they wrote it—and the people reviewing it are the ones who wrote it.

Senator Sherry—No, the government prepares the response and that obviously takes some time. It is covering a wide range of tax issues.

Senator JOYCE—You are not sensitive about it?

Senator Sherry—No, I am not sensitive about it in any way, shape or form.

Senator JOYCE—Then why don't you get it out? What is your knowledge of what is being speculated about it in the public domain? What have you read about it?

CHAIR—I think that is a very open-ended and quite difficult question.

Senator JOYCE—You would have to be aware—resource tax, fringe benefits tax. What other things are being discussed in the public domain which may or may not be speculation?

Mr Parker—I am struggling to think of any aspect of the tax system which has not been discussed in the public domain over the last 18 months.

Senator JOYCE—In the speculation that is discussed, are we talking about a revenue-neutral approach or an increase in revenue—

Mr Parker—Effectively, the answer to that question would depend on what, if any, recommendations of the review the government decides to take up. I think it has been made clear to this committee on a number of occasions that, in many respects, the analysis and recommendations in the Henry tax review are sketches which go to broad architecture and directions which effectively do not set out a specific reform program but go across the whole of the tax system. So the basis on which to speculate about revenue neutrality or revenue gains or revenue losses is not sound.

Senator JOYCE—So you acknowledge that it will streamline the tax system? Is that an acknowledgment?

Mr Parker—That has been one of the themes which has been discussed on a number of occasions and has been mentioned extensively in speeches given by the secretary on the matter.

Senator JOYCE—In your words, what do you mean by ‘streamline’?

Mr Parker—We all know that the tax law is very complex. Some of the administrative systems which are used to administer the tax system—notwithstanding considerable advances which have been made, such as e-tax and various web based products that the Australian Tax Office—still have substantial paper elements to them. So with technological progress there is considerable ability over time to hopefully make sure that the tax system works in a more natural way. That is, it is not an additional burden on top of normal account-keeping arrangements, for example, for businesses. I think we have talked in this committee in the past about the standard business reporting exercise which embeds mechanisms for business to report information to the government in accounting software and so forth. So there will be over time considerable potential to reduce the additional administrative burden off the tax system if we go down that path.

Senator JOYCE—So an example of streamlining would be to remove state government taxes and just replace them with a federal government tax? That would be streamlining.

Mr Parker—Hypothetically.

Senator JOYCE—Now is it hypothetical, is it speculation, or is it the fact that the widely reported removal of sections of individual tax returns for salary and wage earners is part of the Henry tax review?

Mr Parker—That has been the subject of a number of speeches by the secretary.

Senator JOYCE—So it is in there.

Mr Parker—As the secretary has said, that is—

Senator JOYCE—That is definitely in the Henry tax review?

Mr Parker—The panel that has been considering it, yes.

Senator JOYCE—And you are considering it.

Senator Sherry—Senator Joyce, this is all just speculative. I understand—

Senator JOYCE—No, that is not speculation, that is actually in it.

Senator Sherry—In what?

Senator JOYCE—In the Henry tax review.

Senator Sherry—No, that is not correct.

Senator JOYCE—It is not in it?

Senator Sherry—No, he did not say that. The witness did not say that. He referred to a number of speeches by Dr Henry—

Senator JOYCE—Well, Dr Henry, says it is in it.

Senator Sherry—That does not mean that—

Senator JOYCE—That does not mean it is in it.

Senator Sherry—It does not mean it is in it. I suggest—

Senator JOYCE—So what Dr Henry says it is in the Henry tax review that does not mean it is in the Henry review.

Senator Sherry—Could we respond without attempting to push over an answer?

Senator JOYCE—Answer.

Senator Sherry—You are now asking me to answer. I understand your interest, Senator. But you are just engaging in speculation over what has been in the media.

Senator JOYCE—It is not speculation.

Senator Sherry—A report will be released early this year. I do understand your interest. I suggest you wait until the report is released.

Senator JOYCE—How could it be speculation when Dr Henry says that this item is in the Henry tax review and the department officials sitting beside you says that it is in the Henry tax review?

Senator Sherry—I am not going to engage in speculation about what is in—

Senator JOYCE—But it is not speculation, it is a fact.

Senator Sherry—Can I finish my answer? You are very rude when you interject constantly if you do not like an answer. If I could just finish my answer, we are not going to engage in speculation about what may be in and what may be out of the Henry tax review. It will be released publicly. I do understand your interest. It will be released in due course.

Senator JOYCE—You are saying that Dr Henry was engaging in speculation when he stated categorically that the removal of individual tax returns was part of the Henry tax review.

Senator SHERRY—I do not believe there is anything more that we can add to—

Senator JOYCE—I just want you to answer that question. Are you aware that Dr Henry said that?

Senator Sherry—You can reword a question as many times as you like.

Senator JOYCE—I just want a straight answer.

Senator Sherry—We are not going to engage in speculation on what is in the Henry tax review.

Senator JOYCE—You are very confused. It is not speculation.

Senator Sherry—I have given that answer on a number of occasions. I am not going to repeat myself.

Senator JOYCE—You have given an answer but it is absurd that you would say that something Dr Henry said was in the Henry tax review, he has given a speech on it, the department officials beside you have said, ‘Yes, it’s in it’ and you are now saying that it is speculation. It is absolutely absurd.

Mr Parker—Lest words be put into my mouth. I think there is a clear distinction to be made between matters which are considered in the Henry tax review—and those matters essentially cover the entire tax system including the way it is administered and so forth—and the specific recommendations of the review as to what should be done. There is a clear distinction between them. What we cannot speculate about in front of this committee at this stage is the specific recommendations because that is a policy matter before the government. As to the broad topics that are in the review, as I said, the whole tax system is there.

Senator JOYCE—You are now confirming that it was in the formative document which is currently being reviewed.

Mr Parker—As I said, the Henry review covers the whole tax system including the administration of the tax system and the potential over coming decades for a technological change to affect the way the tax system runs. That is part of the terms of reference.

Senator JOYCE—Mr Parker, what Dr Henry said was in the Henry tax review, the document that he delivered to the government, is it the case that he was telling the truth that the removal of individual tax returns for certain salary and wage earners was part of it?

Senator Sherry—With due respect to you, Senator, I think you are confusing yourself. We have made it clear. On a number of occasions we have answered your question. We have answered the same question that you put in a number of different ways. There is simply nothing further to add.

Senator JOYCE—It is absolutely absurd and slightly embarrassing for you to be sitting there trying to hold a straight face when all the facts are stacked up around you that what you said was wrong. Let us go to individual tax returns and the revenue group. Do you believe that there is a cash economy out there?

Mr Parker—Yes. We had quite an extensive discussion about that at the last estimates hearings.

Senator JOYCE—Obviously, you are aware that if certain people are given the option to tick a box to say, ‘They’ve sent me a sheet out in the mail that says that I earned \$40,000 and here’s my \$400 return and that’ll do me,’ they will do that.

Mr Parker—If we are going to engage in a hypothetical discussion then such a taxpayer ticking a hypothetical tax return would be making representations that that form was all present and correct in much the same way that they put material in their return when they make their declaration.

Senator JOYCE—You are aware of the *Intergenerational report* and the changes to the demographics of the population. Do you have concerns in the revenue group about the reduction in the capacity for the collection of tax as the population ages?

Mr Parker—That is a very interesting and indeed deep question. The short answer to the question is no.

Proceedings suspended from 9.45 pm to 10.00 pm

CHAIR—The committee will now resume questioning. We will continue with the Revenue Group and the Australian Taxation Office.

Senator BUSHBY—I have a couple of questions on temporary resident superannuation legislation. I am interested in full details of the funds received in the first round as a result of that superannuation tax change. I think we did not have final figures at the last estimates. I am also interested in any information on how the second round is looking.

Mr Olesen—We completed a couple of rounds of the temporary resident process recently. I think we answered question on notice and provided figures as at November last year. As you would be aware, funds are required to provide reports, typically in April and October of each year. In the first round we deferred the original due date to June. In the first run we received in the order of \$199 million. That was in relation to some 650,000 notifications given to some 430-odd funds. In the second run, which was to October last year, we received some \$45 million.

Senator BUSHBY—Is the \$45 million considered by the tax office to be the amount that is actually paid to the STG by temporary residents between the period of the first round and the second round or does that include some of the catch-up?

Mr Olesen—We do not have any direct information about the balances that are held in these accounts. All we have is information from the department of immigration that tells us about people who have left the country since the previous round. Based on that information, we do some of our own checks to try and make sure that they have in fact since left the country and are captured by the measure. Neither DIAC nor the ATO have any information about the actual amounts of funds that are held in the super funds in respect of those nonresidents.

Senator BUSHBY—How do the receipts compare with what was budgeted for those first two rounds?

Mr Olesen—I do not have that information by round.

Senator BUSHBY—We have a lot of questions to get through before 11 o'clock, so could you take that on notice.

Mr Olesen—Certainly.

Senator BUSHBY—How much of the \$244 million that has been paid has been claimed back by temporary residents?

Mr Olesen—I think the latest information that we have is what we provided in answer to the question on notice, in November.

Senator BUSHBY—Could you take on notice to find any further information on that.

Mr Olesen—Certainly.

Senator BUSHBY—What steps does the ATO, or the government in general, take to ensure that the owners of this superannuation are fully aware that they own those funds and that by leaving the country without making arrangements for them they will end up in consolidated revenue?

Mr Olesen—We have developed a range of educational materials to try and target those people who come to Australia that we think would be most impacted by the measure. We are working in particular with the universities and the hospitality industry. In addition to that, we make information available through our website so that people are aware of these rules. It is not possible to be comprehensive, but we have tried to target some activities.

Senator BUSHBY—You try and target them up front, not just by providing them a box to tick on the way out? There would be a box to tick on the way out.

Mr Olesen—There is information.

Senator BUSHBY—But they are on their way out at that point.

Mr Olesen—Yes, that is right. Nevertheless, that has proven to be a useful tool to advise people about their rights as they leave the country.

Senator BUSHBY—We will move on from there. At the last estimates hearing the ATO indicated that they had just completed the new agency agreement that provided flexibility in how you employed your staff, particularly in the context of call centres. Has the implementation—or the starting date—of the fair work legislation and associated modern award systems impacted at all on your agreement or on the flexibility that it contains?

Mr D'Ascenzo—The short answer is that we have been taking the fair work arrangements into account but we have not seen them impacting on our operations at this stage.

Senator BUSHBY—When you negotiated the agreement did you negotiate it bearing in mind the likely impact of that legislation?

Mr D'Ascenzo—We certainly understood the context. It was mooted but certainly not passed by the time we had our agency agreement signed.

Senator BUSHBY—Are you aware of any subsequent potential conflict?

Mr D'Ascenzo—There may well be certain requirements in the Fair Work Act that we now have to overlay on our agreement, but I do not think there is any great inconsistency in what we are trying to achieve.

Senator BUSHBY—So, in your opinion, the legislation is not going to impact on the flexibility that you have negotiated into that agreement?

Mr D'Ascenzo—At this stage I am not noticing anything of an impact but perhaps I could take that notice and seek advice from my corporate area.

Senator BUSHBY—Okay. It will flow into questions I have on your budget, which I will get to in a minute. This is related to it but more immediate: how much has the issuing of returns being thrown out by the current introduction/trialling of the new computer system?

Mr D'Ascenzo—We did sort of put a hold on return processing while we did a major part of the deployment to our new system. I think we stopped the system during the Australia Day break to try to minimise the impact on the community, but that still involved, I think, something in the order of 670,000 returns.

Senator BUSHBY—Was the delay or the impact on returns consistent with what you were estimating it to be?

Mr D'Ascenzo—Yes, we knew that there would be a sizeable number. If anything, that number is probably the smallest number we would have in a whole 12-month period having a break there.

Senator BUSHBY—Okay.

Mr D'Ascenzo—Part of that is also having a backlog from previous delays in processing, so it was probably not all from that week, but we anticipated having that break.

Senator BUSHBY—Okay. Between the previous backlog and the backlog caused by the break, is that why the tax office has informed some tax payers they cannot expect their returns before March and for some maybe even in April?

Mr D'Ascenzo—We certainly have kept taxpayers that might be affected informed of the fact that there will be delays as we get to normal production. We are hoping to get normal production early next month but there will be a catch up as we try to clear the decks of the stockpiled amount.

Mr Butler—Perhaps I can help there. We have, as the Commissioner said, about 675,000—in fact I got a text tonight saying it is 705,000—returns. To put some context around that, we are still in pilot mode—we switch to full production mode next week. On the weekend we will process about 111,000 returns, we are doing 58,000 tonight and did 60,000 two nights ago. That does sound like a lot—our full expectation is that we will be back to normal processing turnarounds by the end of February.

Senator BUSHBY—So back to normal processing in terms of how many you do a day?

Mr Butler—As far as the backlog is concerned?

Senator BUSHBY—Yes.

Mr Butler—We will have caught up and be processing returns on a normal basis.

Senator BUSHBY—By the end of February?

Mr Butler—By the end of February. There might be some returns for which, for particular reasons, assessments are not issued. There could be a child support issue, a Centrelink issue or

something we are concerned about—a high-risk refund, as we call it. Apart from those, which are relatively smallish in number, the vast majority will go through by the end of the month.

Senator BUSHBY—In respect of the backlog, does the tax office inform other agencies of government about the delays it is experiencing? For instance, is Centrelink informed so that people who are waiting for their 2009 tax returns in order to claim benefits and those sorts of things are not disadvantaged?

Mr Butler—We have engaged with Centrelink for some time. They are fully aware of all the time frames and things like that.

Senator BUSHBY—Would they be aware of individual taxpayers who might be affected and the potential impact on their claims through Centrelink?

Mr Butler—Some of our matching capabilities have not been available since the long weekend shutdown, and Centrelink are well aware of that. The way it essentially works is that we do matching for them. They let us know who they are concerned about and we will let them know if the tax return has been processed or not. They have been fully engaged the whole way through.

Senator BUSHBY—Would a similar thing apply for students who need their parents' tax returns in order to claim youth allowance? Is there data matching possible there too?

Mr Butler—There would be similar sorts of categories like that, yes.

Senator BUSHBY—Would there be the potential at the moment for some students to not be able to have their claim for youth allowance processed because they cannot get access to their parents' tax returns?

Mr Butler—I probably cannot answer that. That is probably more a question about what Centrelink's practices are rather than ours.

Senator BUSHBY—But there is potential from your side that those parents may not have that information.

Mr Butler—They may have filed their return. During this whole period, you can still file your return. There has been a delay in processing returns.

Senator BUSHBY—So they may not have their return because they are caught up in the backlog.

Mr Butler—There could be some parents who are.

Mr D'Ascenzo—My understanding is that Centrelink have had processes in place to deal with a number of hardship cases.

Senator BUSHBY—You are not really the people to ask, but are you aware of whether this would qualify as a hardship case?

Mr D'Ascenzo—I do not know what the Centrelink criteria are, but the basic position that I understood was that, because it was going to be situations where, because our systems were not providing the data matching that they needed or the lodgement of returns that they might have needed to get their benefits, they would be given a favourable consideration by Centrelink, but I cannot say any more about what that is.

Senator BUSHBY—Given the scale of the disruption that it has caused—and certainly it would have inconvenienced some taxpayers in the ways I have just asked about—was it not possible to run the old computer system in tandem with the new one?

Mr D’Ascenzo—No, it is not actually, because we had to convert the data from the old one to the new one and both of them would not work and be reconciled if we tried to run both of them. Mr Butler might be able to give you more detail.

Mr Butler—We had to essentially turn the old system off, move all the data across to the new system and then start processing on the new system going forward. You cannot run—

Senator BUSHBY—Because, if you start running the new one while the old one is still going, the information would change and it would no longer—

Senator Sherry—If you are interested—

Senator BUSHBY—I am just trying to move through this quickly.

CHAIR—I will go to another and come back to you.

Senator Sherry—Chair, just on this changeover, I did not realise myself the truly massive scope and implications of the tax office’s change program. If the committee would like a full briefing on this—just because of the sheer scale and the implications—we are happy to organise to do that.

Senator BUSHBY—Okay. That sounds great. The ATO said you would pay interest on late returns. How will that interest be calculated and from what dates in respect of individual taxpayers?

Mr Butler—We will take that on notice.

Senator BUSHBY—That is fine.

CHAIR—We might go to Senator Eggleston now. I will come back to you later, Senator Bushby.

Senator EGGLESTON—I have three issues here really. Firstly, how has the government’s tax relief package aimed at supporting small businesses impacted on small business? Has it, for example, created problems with credit accessibility?

Mr D’Ascenzo—There have been a number of programs in place to help small business. One was actually directed at trying to contact small businesses early in relation to outstanding debt matters so that rather than falling behind significantly in their debt and then trying to avoid, evade or not deal with it in a sensible way they would engage with the ATO at an early point of time. We could work out some payment arrangements and those payment arrangements could then help both with the cash flow of the business and ultimately, as the business improved, to get it out of its current difficulties.

We have certainly had more payment arrangements in place since we introduced the new arrangements. Our level of failures in terms of those arrangements has not increased appreciably, in fact it has stayed reasonably steady. The level of outstanding collectible debt has increased, as you would expect from that strategy. Some people may be seen to take advantage of it, but while we are reasonably happy and reasonable in trying to provide that

assistance to small business we do engage with them and we do try to ensure that there is a bit of quid pro quo and reciprocity in the arrangements that we arrange with them.

The anecdotal information that we have from the small business sector is that it has been very helpful to small business to have that cash flow facility in terms of engaging with us in relation to a debt that they otherwise would have left in abeyance and perhaps not managed as well as they have under the current arrangements. That is one example. So the answer is that there might be some, but I think they would really be the tip of an iceberg, and the majority of the iceberg would be doing the right thing. The majority have responded very positively and reasonably to fair treatment in difficult circumstances.

Senator EGGLESTON—There was an article in the *Australian Financial Review* on 26 October, written by Sam McKeith. He said

About 706,000 of the smallest businesses owe the ATO \$6.5 billion and the ATO predicts that figure will rise.

I believe that you have entered into interest repayment arrangements with quite a number of taxpayers. Can you confirm that and tell us how many are involved?

Mr Butler—So far for the 12-month general interest charge free payment arrangement, which is available until 30 June this year, there are 138,200 taxpayers with a total value of \$3.06 billion involved.

Senator EGGLESTON—That is 138,000 taxpayers and \$3.8—

Mr Butler—\$3.06 billion.

Senator EGGLESTON—There are more, in fact, than were mentioned in this article?

Mr Butler—Yes.

Senator EGGLESTON—They do go on to quote:

“If a company has moved to defer its tax liability, this is seen as a blight on the company’s financial position because a financier considers not paying due taxes as the worst felony one can commit.”

On the one hand it looks like they are getting a benefit but on the other they are finding that it is perhaps difficult to borrow money. I just wonder where you see this may end up—are we going to have a lot of small businesses compromised?

Mr Butler—As the commissioner said, there has been quite positive feedback on this particular initiative—the twelve-month general interest charge free payment arrangements—from small business people and representative groups. The deferral of activity statement payment has been very beneficial as well. I do not think we are in a position to comment on what the banks might do in the way of their lending policies and practices. But certainly the overall feedback we have received was that it was welcomed, and people who have used it have found it to be beneficial.

Senator Sherry—If there is an issue with lending policies by financial institutions, including banks, that would be an issue for either Markets Group or possibly APRA or ASIC.

Senator EGGLESTON—Thank you for that. I thought I would seek more information on this article. The second issue is that there was another article in the *Australian Financial Review* on 14 January this year by Paul Cleary in which he refers to a differential service

model of GST issues. Could you perhaps enlighten the committee about what that means? It seems that there is a group of companies who have got a special arrangement over the payment of GST.

Mr Quigley—That was referring to a pilot program where we initially approached the four large accounting firms to look at some special arrangements that we might be able to put in place for very large taxpayers, in the largest top group. The idea of the pilot is to then evaluate the service that we provided there. It is a premium service because the taxpayers we are talking about are high-revenue taxpayers as well as requiring quite complex assistance in some ways. The idea is to roll it out to other accounting and legal firms that actually deal with, initially, the top 50 corporates in Australia and then to roll it out further to about 100, provided that the pilot is seen to be successful.

Senator EGGLESTON—What does it actually involve? Is it a lower payment of GST?

Mr Quigley—No, it is nothing like that. It is giving more direct access to highly qualified staff who can provide technical assistance and also assistance in how these top corporates might be able to work with us to make the process easier. Certainly there is no suggestion that they have any discounts on payments or anything like that.

Senator EGGLESTON—What service do you provide to them?

Mr Quigley—We provide them with direct access to key account managers who can deal with the sorts of issues that these top corporates have—they are complex issues—rather than going through what would be our normal sorts of processes.

Senator EGGLESTON—It seems not everybody is happy with it. In this article, somebody called Gina Lazanus from Balazs, Lazanus and Welch said that the inconsistency between the big four and other companies was completely inappropriate. She went on to say: ‘How can the tax commissioner treat the four big accounting firms and their corporate clients any differently to all other advisers and all other taxpayers? Where does that leave unrepresented taxpayers?’ What would you say in reply to those comments?

Mr Quigley—Two things. The first is, as I say, it was a pilot and we did start with the top four accounting firms, which deal primarily with the large corporates, which is the market that we are talking about. We actually addressed those issues by contacting second-tier firms, legal firms and advising them of the intention of rolling the program out. The second thing is that it is highly unlikely that the taxpayers we are talking about, being the large corporates, are unrepresented.

Senator EGGLESTON—Very well. Thank you. I accept that explanation.

Senator BUSHBY—It was the case that at least one or probably more of the large four are actually using their involvement in the pilot for marketing purposes?

Mr Quigley—There were allegations of that. It is fair to say we did not put any restriction on any marketing. A statement was sent out to one of the firm’s clients saying that they are involved in the pilot.

Senator BUSHBY—And actually using that as a selling point for streamlined processing of private rulings et cetera?

Mr Quigley—It is not up to me to judge whether that was what they were intending to do or not.

Senator EGGLESTON—Another question is that of changing tax on mineral royalties to a resource rental tax administered federally. There is another article in the *Financial Review*, which is a paper I read avidly, on 14 January, again by Paul Cleary, who says part of the rationale for this is that the royalties charged by states will yield less revenue than a resource rental tax would. Are you aware that the Premier of Western Australia has lifted the level of royalties in Western Australia for mineral projects; ended the old system of concessional royalties, which applied from the 1960s, when the Pilbara mining industry was first established; and set a new royalty level, which is very much higher and which I think will apply from 1 July?

Mr Quigley—I am not familiar with that article. But I suspect this is the issue that was discussed earlier about what may or may not be in the Henry review, so I cannot comment.

Senator Sherry—There is one issue that I can totally agree with you on: I am an avid reader of the *Financial Review* as well. Beyond that we are not going to speculate about tax issues and the tax system.

Senator EGGLESTON—I am not looking for speculation. Are you aware that Premier Barnett has said and advised the Western Australian mineral industry that, even if there is a federal resource rent tax, they will still be paying royalties to the government of Western Australia? That would appear to be setting the scene for quite a confrontation if this tax goes ahead. Some people in Western Australia refer to it as the Boston Tea Party issue, which is very interesting.

Senator PRATT—I note that the government reported that the tax bonus created a record tax return lodgement of 96 per cent. I want to know what kind of a difference an incentive like that makes to the bottom line in terms of revenue. Clearly more people might have got a rebate last year versus those that end up with a liability.

Ms Granger—To clarify, are you asking if have we had some improved compliance out of doing the tax bonus?

Senator PRATT—Yes, that is part of my question. My next question was: did many people put in a tax return just for that year, when they had previous years outstanding? Did people try and get up to date with their tax and has that made a substantial difference to overall revenue? What kind of impact does an incentive like that have?

Ms Granger—I do not have the implications of revenue here today, but we had a record number of tax returns filed in that year. As of 18 December, there were 12.6 million returns filed. So there were additional returns coming into the system as part of it. There were people lodging a number of years as part of that process as well. So it certainly did bring attention to that. As for how that plays out revenue-wise, a lot of people who file those returns actually do get refunds. It is just a characteristic that some people are well aware that they have some refunds in the system and for various reasons decide not to file, but obviously there was some incentive to do that for that one—

Senator PRATT—It is the only way some people save!

Ms Granger—Some people see it almost as a savings measure that they have when they need one. There certainly were more returns than usual filed for that particular—

Senator PRATT—And there were a substantial number of people catching up on previous returns.

Ms Granger—Yes. I do not have the numbers here with me, but there were people who filed multiple years as part of that.

Senator PRATT—How much of a problem is the extended period of time that some individuals go without lodging a tax return? Is it worthwhile to work out what can be done to create incentives? They might not be so substantial in a financial sense, but they would be incentives for people to catch up.

Ms Granger—I might kick off and then hand to my colleagues because it is more in their area. We do encourage people to lodge. We like them to keep up to date, but it is also important for a range of reasons that were discussed here tonight. Often it is interconnected with benefit claims et cetera that you may want to make. The concern we have is that it is very difficult to know, if you have not lodged, whether you are a risk in terms of not paying your full amount of tax or whether it is a refund. Obviously, in a self-assessment system what we do is take a risk based approach to how much follow-up we do in those circumstances. That is a question of resources and impact on the community. I will see if my colleagues want to add anything to that.

Mr Butler—Only to add that, as suggested by Ms Granger, we do quite a lot of work for those people who we think will have a debit assessment. For natural reasons, the ones who are likely to get refunds are lower-priority work for us in some respects.

Senator PRATT—Thank you. On a different topic, I know the government has done a lot of work to improve the integrity of the tax system and also amended a lot of tax laws—things like employee share schemes, non-commercial losses, hobby farms and high-income individuals deducting losses from unprofitable businesses. It seems like a lot of attention in the last period has gone into that, and I really want to ask how much of that extra attention has gone into pursuing these kinds of measures because of the global financial crisis and falling revenues. Noting the issue of paying off debt in coming years, are we going to see ongoing attention to those kinds of measures?

Mr Quigley—That is a very far-reaching question. You have covered a lot of ground there. You have mentioned a whole lot of new measures that the government has legislated for. We look at the risks that might be inherent in the new measures and weight those against the other risks that we have. When we put out our compliance program every year, we will certainly look at activities, whether they are assisting people to understand what might be their entitlements or doing some reviews and audit actions. So it is a whole package of things. You have mentioned a whole range of things. In our compliance program, we cover the whole range of those things quite transparently. This is the activity that we are going to be engaged in in these particular things. It is hard to give you a straight answer to that.

Senator PRATT—But you have clearly organised yourselves to look at the integrity in the tax system, in particular because of the pressures of falling revenues.

Mr Quigley—Correct.

Ms Granger—I will add a little bit to that. With regard to our strategy around the unfolding global financial crisis, we differentiated our response. It was very important. There were clearly going to be people and small businesses struggling; in fact there have been questions on that earlier. We relaxed a whole range of the things we do. So it is never a question of going for dollars for dollars' sake; it is about what is the appropriate way to support the system in a particular situation. At the same time, we put out very clear warnings that we were concerned about, for example, artificial losses at the larger end or tax planning. You see different kinds of artificial tax at times. That kind of risk is also targeted but, as Mr Quigley said, it is a very differentiated response.

Mr D'Ascenzo—If I can add to what I think Mr Quigley said, the question is quite wide ranging. At one end it really starts from the government's view of the policy parameters underlying the law and a lot of our work is mainly to implement those law parameters once new measures arise. Where we see the underlying policy intent of the law is not operating as it should, whether it is causing anomalies for taxpayers or whether there is a gap in revenue or a loophole, we would advise Treasury and Treasury would then consult with government.

Senator PRATT—Thank you. That does answer my question. Lastly, and I suppose it is on the same kind of theme, the ATO has had an anti-tax evasion strategy, which I believe has been quite successful. I understand that you have been encouraging people to disclose in exchange for a reduced tax penalty. How successful has that scheme been? Clearly you have given people a discount from their liability, but we may have in turn I suppose encouraged people to pay when otherwise they might have continued to avoid that tax and we might not have gained the revenue at all.

Mr D'Ascenzo—The discount has been basically a reduction in the penalty from what it could be—it could be as high as 50 or 60 per cent, depending on the level of evasion and fraud involved—to five per cent plus interest. We have had some 3,200 people come in and voluntarily disclose. In the beginning until now there have been 3,532 and that has brought to our attention liabilities that have raised \$69 million that otherwise would not have been able to have been found.

We refreshed that offshore voluntary disclosure initiative recently. We actually upped the penalty from five per cent to 10 per cent—the principle being that we have given people an opportunity and people who sit on their hands longer certainly should not be deserving of an even greater concession. We have allowed people to come in anonymously so that they can get some understanding of the likelihood of any prosecution action that we would take. We are hoping that that will again encourage people to come forward and bring money or taxable income that is duly payable in Australia back to Australia.

We have gathered a lot of information now from our own investigations, from high-profile projects like Project Wickenby, and from our dealings with our international treaty partners. We are getting a sizable amount of information that has quite a number of taxpayer names and details. We are hoping that those taxpayers will come in before we have to knock on their door.

Senator PRATT—I hope so too.

Senator FIELDING—I have been pretty quiet on this topic. I started back in February 2006. The Change Program has been called a white elephant. There has been a \$300 million blow-out and a three-year blow-out in time. Where is it at?

Mr D'Ascenzo—Firstly, I think the blow-out is really a furphy. What you have to take into account is that we had an initial budget of something like \$453 million to do certain things and then halfway through the project we had some very major initiatives in terms of super simplification. That added an extra \$200-odd million to the original budget. It is not a blow-out; it is new policy that needed to be implemented and was incorporated into our Change Program. That of course does mean that the time schedules have to be extended and elongated to take that into account.

It has been a very closely managed program and, as we said beforehand, we are at a very critical stage where we have converted our income tax system from our national taxpayer system—which has been in place for something like 30 years, has 32 million accounts, has something like 280 million forms that it transacts with—to our new integrated core processing system. It is still high risk, still carefully managed, and we are still confident of a very good outcome for the community.

Senator FIELDING—Where is that at? Just explain to me where is at again. I have seen press reports that some of it is kicking in in February—

Senator Sherry—Senator, we are quite happy to go through it, but Senator Bushby actually did raise quite a few questions about this earlier—

Senator FIELDING—I was here earlier.

Senator Sherry—That was the Change Program.

Senator FIELDING—There were not many questions at all on the Change Program, from what I could hear.

Senator BUSHBY—It was about a specific aspect of the Change Program.

Senator Sherry—It was the Change Program.

Mr D'Ascenzo—Mr Butler can take you through that.

Mr Butler—With regard to the media coverage around costs and things like that, the Australian National Audit Office has completed a full audit, which has been tabled in parliament, and that report does state on a number of occasions that the delays and extra costs were largely due to legislation change. So that is an independent view of what has happened. Now, we are, as the commissioner was referring to, at a critical—and it is going very well—stage of implementing our new income tax system, which is the biggest IT release we have ever put in place.

Senator FIELDING—What date is that supposed to happen, or has it happened?

Mr Butler—It is happening now. As I mentioned in my evidence before, we move to production from next Monday. This stage is the biggest, most complex part of it, but we are very much towards the end of the whole thing.

Senator FIELDING—One of the questions that I asked previously—and you know I have been on this topic a couple of times before since 2006; I sort of let it go over the last year just

to see how you folks would go without any questions on it—was around flexibility: for example, if the government comes up with new ideas, will the system be able to cope with all those things? You gave the impression it would. Have you had a look at the Henry tax review, without going into details, to see whether the system can handle some of its suggestions?

Mr D’Ascenzo—I am not sure about the Henry tax review, but, going back to super simplification, we considered whether or not we should do those changes under the old NTS platform.

Senator FIELDING—I do not want to know the details of the Henry tax review. The government will hold onto that as long as they like. I am asking if you have had a look at the capability from a system perspective, and I would be very surprised if it is not very capable of doing nearly all of it, given the amount of money that was spent on this system. It was supposed to be very flexible.

Mr Butler—Our absolute belief and our view is that this will be a more flexible system. We can respond more quickly to government policy change. For example, for the package of reform measures for tax time 2010—that is, the changes that start 1 July this year—we costed building that in the legacy system and building it in the new system—

Senator FIELDING—Can I ask the question again so you can answer it. Have you had a look at the Henry tax review, and will the Change Program and the systems you have currently got in place be able to handle the recommendations that it covers, yes or no?

Mr Butler—I cannot answer yes or no, because I do not know—

Senator FIELDING—Have you looked at it?

Mr Butler—what the government is going to agree to in the Henry review.

Senator FIELDING—Okay, but have you looked at the Henry tax review? Let us start there first. Yes or no? From a systems perspective.

Mr Butler—Certainly, in our planning we are always looking forward to see what the likely changes might be, and, to the extent we can, we build that into our plans. That is the—

Senator FIELDING—The reason I am asking you these questions is that you told me the system was going to be flexible enough to handle government changes—

Mr Butler—Yes.

Senator FIELDING—That is the reason I am asking. Have you had a look at the Henry tax review to work out whether the system will be able to handle the recommendations in there?

Mr D’Ascenzo—There is no question about that. The short answer is we have not got the final Henry review product, but we have had input to Treasury along the way, including on the ability to administer some of the proposals, and that has involved us considering whether our system could manage some of those proposals.

Senator FIELDING—Okay. I will leave it at that.

Mr D’Ascenzo—And even then it is at a very early stage, because again the proposals were not fully worked out or considered. Our input into the whole policy design perspective is

to say, 'Look, this is a policy measure; ATO, can you administer it?' We have had people working with Treasury in providing advice as to whether or not we think we are able to administer it in a proper and sensible way.

Senator FIELDING—I would be very interested to see what comments are made about systems capability to handle whatever comes out of the Henry tax review. Given the amount of money we have spent and the intimations about flexible systems, I am hoping it is all quite okay.

Mr D'Ascenzo—Again, it depends on some of the measures with systems. I remember having the early discussions with you in 2006 and we appreciate your interest in it because it is a major initiative for Australia in terms of having a flexible system that allows the government of the day and the parliament ultimately to have more options in the way that they can change the law in whatever way they wish. We do believe, as Mr Butler said, that the system is more flexible and more modular. It has proven to be that way even with some changes we are starting to do under the current system. There are things that are sometimes in scope, in other words you have a pattern in your system that caters for it, or there are new ideas that are outside the scope of the current system and you have to build new systems for it.

Senator FIELDING—What is the tax office involvement in helping people find their lost super? Can you outline generally how you folks are involved in that?

Mr D'Ascenzo—I think the minister could probably answer that!

Senator Sherry—I have asked the question on many occasions and have followed the answers with a great deal of interest, as I am sure you would know. I no longer have ministerial responsibility and I will allow the officers to answer.

Mr Oleson—We make available a number of tools, basically, for people to be able search our register. The main mechanism we make available is an online search facility for people to enter their name and tax file number, and that will bring up any super that we have on the register. That can then be located and they can access the fund. We of course do not hold lost accounts. We have a register of superannuation that is lost; moneys still held in the super fund. We give them access to that information and they can then go to the super fund directly and access the super.

Senator FIELDING—How many individual Australians does the tax office communicate with each year? Is it everybody? Obviously kids do not have tax file numbers but, one-on-one, where you use 'Dear Mr Fielding ...,' roughly how many unique individuals would you contact?

Mr Oleson—It varies. We have run different programs.

Senator FIELDING—Roughly, though.

Mr Oleson—It varies significantly, depending on the years involved. We did transfer our register onto a new database as part of the changes you were talking about before –

Senator FIELDING—I am talking about just now, from Tax's point of view, just generally. Not lost members.

Ms Granger—My figures might be a little out of date, but if you are talking about any kind of contact as in we send you some correspondence or whatever, it is over 11 million individuals.

Senator FIELDING—Does the tax office look at sending something out to someone and saying ‘You have three superannuation accounts; you might want to do something about it’? Is that what happens at the moment? I do not know whether it is all reactive and you are waiting for people to tap away on their computers and do something. If you are already sending something out to them, if the postage is already done, do you actually proactively spit out a bit of paper saying ‘Here are your two or three lost super accounts’? You have the data.

Mr Oleson—Yes, we do. We run a program like that each year. As I was trying to explain earlier, the number of those does vary from year to year.

Senator FIELDING—Has that communication changed, and what is the success rate of people responding?

Mr Oleson—We do a mix of telephone calls or letters. The mix of those varies from time to time. We have quite a high success rate in contacting people, and it is up to them to then contact the fund and that conversion rate is not as high as we would like. It is in their hands to contact the fund and then access the super. We give them the information but only around 10 to 15 per cent of people then act on that to remove it from the register.

Senator FIELDING—There were some reports that I read with interest—and perhaps they are rumours—about potential staff cutbacks associated with the efficiency dividend that would create a revenue loss for the tax office. Has that been covered?

Senator BUSHBY—No, it has not. I was going to ask about that.

Senator FIELDING—I am happy for you to explain whether that is the case or not. More staff in the tax office could mean more revenue collection. That may not be the case, but the levels of collection have perhaps not grown as they could have and you are effectively losing far more revenue than the cost savings would represent. In other words, while you could save \$40 million through staff cutbacks, you could lose \$140 million in revenue, for example, because you do not have the right number of staff to collect the revenue.

Ms Granger—In terms of average staffing in the tax office—

Senator FIELDING—Yes, I know it has gone up.

Ms Granger—As you know, we have people come and go—I am sure you have heard that before. The numbers for this year are roughly the same as last year. In fact, if anything they are slightly higher. This year, obviously we have had to make savings because of the efficiency dividends and other measures. We have tried to minimise the impacts on both service and revenue collection and we have looked first at how we can cut costs around things like the travel budget and our administrative support—all those kinds of areas—so that we can minimise that impact. We think we have done a reasonable job of that.

Senator FIELDING—Could I ask a specific question to follow up from that.

CHAIR—You are depriving two senators of their opportunity.

Senator FIELDING—Maybe you could take it on notice. What analysis has the Australian Taxation Office done on the optimum level of staff to maximise revenue intake? You must have made some examination of that. I would be interested to see the results.

Mr D'Ascenzo—We have not done a maximise revenue. Revenue is—

Senator FIELDING—You haven't?

Mr D'Ascenzo—We work with Treasury on the estimates of likely revenue each year. We have to get close to those parameters unless there is some economic factor that would somehow take us either higher or lower. We have been reasonably successful at being on a par with if not better than what the estimates suggest on a regular basis. We go to government like any other department with proposals for more funding for specific activities that could either provide better services to taxpayers or greater scrutiny—

Senator FIELDING—But doing it that way is putting the cart before the horse. Wouldn't you actually be better off trying to get the optimum level of staff—

CHAIR—It is Senator Colbeck's call.

Senator COLBECK—I have some questions about the foreshadowed bill for the access to the R&D tax concession, for which there is an exposure draft at the moment. What is the genesis of this measure?

Mr Parker—As a policy measure, the responsibility for that falls across more than one portfolio.

Senator COLBECK—I understand that. We had a discussion with your colleagues in Industry this afternoon.

Mr Parker—As I understand it, the genesis of the measure was to refocus the existing concessions and deal with a number of shortcomings in the existing law.

Senator COLBECK—Shortcomings being your interpretation of it, and obviously there are others out there with their own views. As I understand it, there are two elements to the legislation. Firstly, it is a resetting of the thresholds of the various payments within the scheme. Secondly, I think the critical thing that has received most comment in the media reports I have seen is the changing of the definitions mandating 'innovation or high levels of technical risk' to 'innovation and high levels of technical risk'. Is that a fair assessment?

Mr McCullough—I am not trying to overcomplicate things but the R&D concession is a significant piece of tax law; it is pretty hard to just break it down—

Senator COLBECK—I am talking about the changes not necessarily the broad scope of the law. I understand that it is complicated.

Mr McCullough—I am talking about the fact that the entire section has been redrafted. It has been taken out of the 1936 act and put into the 1997 act. There was a discussion paper issued last year which had a number of principles for redesign in it. Once the feedback from that had been received the next step of the process was to prepare an exposure draft of the bill and explanatory memorandum. That has been out for consultation, and the consultation period finished last Friday.

Senator COLBECK—I understand those principles. What I am trying to get is some sense of what modelling has been done to quantify the impacts. Minister Carr has said publicly that this measure will be revenue neutral. I am trying to find out what modelling has been done to actually verify that it will be revenue neutral. Have the changes been modelled?

Mr McCullough—That is not my area; I am sorry, Senator.

Mr Brown—The proposals were costed in the budget estimates and in developing those costings the proposals were looked at. Essentially the measure has I suppose a couple of effects that we would anticipate on research and development activity. First of all, you do have an increase in concessions. The increase in concessions could be expected to increase R&D expenditure by businesses, and associated with that there is also in the measure a tightening of eligibility criteria. The measure is expected to be broadly revenue neutral, and that comes about essentially because the tightening in eligibility criteria offsets the increase in activity that arises because of the increase in concessions. So effectively you have a contraction in some R&D which fails the tests that are being applied for genuine R&D activity and you have an increase in the activity that is targeted.

Senator COLBECK—My understanding is that one of the thresholds has been lowered somewhat and another one has been raised. Your evidence is that it is an increase in concessions to be paid in an overall sense?

Mr Brown—In an overall sense the changes were broadly revenue neutral in terms of their impact on the underlying cash balance.

Senator COLBECK—I am trying to break it down to get a sense of this. Industry tells us that there are about 7,000 claimants, and you probably have the same data. I do not think there is any dispute about that from either side of the equation. The assertion, quite broadly across industry, is that this will halve the number of businesses who have access to this. Minister Carr did tell us that there was one element which would bring new claimants into the system—which was eligibility for those that held their IP offshore. So perhaps that brings a few extra in. But I am trying to get a sense of the numbers. In your calculations, how many do you believe will be eligible under the new scheme for the R&D concession—given that there were 7,000 claimants, which is a figure that has not been disagreed with by any level that I have seen; and the industry is saying it. How many are you saying will be eligible under the new regime?

Mr Brown—Our modelling did not look at the number of claimants; we looked at the amount of R&D spend overall when we are doing our analysis. We did not actually go and build up estimates from individual taxpayers or companies. So I do not have that information in terms of numbers.

CHAIR—The committee will now adjourn. Senators may put questions on notice, which will be answered in due course. I thank the revenue group of Treasury and the Australian Taxation Office for coming in this evening.

Committee adjourned at 11.00 pm