



COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

## SENATE

ECONOMICS LEGISLATION COMMITTEE

**Reference: Tax Laws Amendment (Wine Producer Rebate and Other Measures)  
Bill 2004**

MONDAY, 9 AUGUST 2004

CANBERRA

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Monday, 11 October 2004

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**WITNESSES**

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**SENATE**  
**ECONOMICS LEGISLATION COMMITTEE**

**Monday, 9 August 2004**

**Members:** Senator Brandis (*Chair*) Senator Stephens (*Deputy Chair*), Senators Chapman, Murray, Watson and Webber

**Participating members:** Senators Abetz, Boswell, Brown, Buckland, George Campbell, Carr, Cherry, Conroy, Cook, Coonan, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Fifield, Forshaw, Harradine, Harris, Kirk, Knowles, Lees, Lightfoot, Ludwig, Lundy, Mackay, Marshall, Mason, McGauran, Murphy, Murray, O'Brien, Payne, Ridgeway, Sherry, Stott Despoja, Tchen, Tierney and Wong

**Senators in attendance:** Senator Stephens (*Deputy Chair*), Senators Chapman and Murray

**Terms of reference for the inquiry:**

Tax Law Amendment (Wine Producer Rebate and Other Measures) Bill 2004.

**Committee met at 6.38 p.m.**

**BROWN, Mr Colin Leslie, Manager, Costing and Quantitative Analysis Unit, Department of the Treasury**

**COLMER, Mr Patrick Joseph, General Manager, Indirect Tax Division, Department of the Treasury**

**FREE, Mr Anthony John, Manager, Excise Unit, Indirect Tax Division, Department of the Treasury**

**TILLEY, Mr Paul, General Manager, Tax Analysis Division, Department of the Treasury**

**ACTING CHAIR (Senator Stephens)**—I call the committee to order and welcome the representatives of the Department of the Treasury. We are here tonight to take evidence on the Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004. The bill amends the A New Tax System (Wine Equalisation Tax) Act 1999—the WET act—to implement a new wine producer rebate and to address certain compliance and administrative issues arising from the legislation. In particular, the amendments introduce a wine producer rebate to offset wine equalisation tax up to a maximum amount of \$290,000, improve compliance and abolish accelerated depreciation of grapevines. On 4 August 2004, the Senate referred the bill to the Senate Economics Legislation Committee for inquiry and report by 11 August, with reference specifically to the government's costings of the wine producer rebate introduced by the bill.

Before we take evidence I reinforce for the record that all witnesses appearing before the committee are protected by parliamentary privilege with respect to their evidence. Parliamentary privilege refers to the special rights and immunities necessary for the discharge of parliamentary functions without obstruction or fear of prosecution. Any act by any person which operates to the disadvantage of a witness on account of the evidence given by that witness before this committee is treated as a breach of privilege. These privileges are intended to protect witnesses. I must also remind witnesses that giving false or misleading evidence to the committee may constitute a contempt of the Senate. The committee prefers all evidence to be given in public, but should you at any stage wish to give any part of your evidence in private you may ask to do so and the committee will consider your request. I invite you to make an opening statement, if you would like to do so.

**Mr Colmer**—I do not think we have any statement to make. We are happy to take any questions. We will leave it to you.

**ACTING CHAIR**—We will proceed to questions. Again, I apologise for the delay in getting to this but the previous legislation was something of great interest to all members of the committee and it needed to be pursued. We will go to the budget papers, if we could, and start there. The estimates for the WET rebate published in Budget Paper No. 2, budget measures for 2004-05, are \$58 million in 2004-05, \$90 million in 2005-06, \$90 million again in 2006-07 and then \$100 million in 2007-08. Can you tell me first of all whether they are gross figures or net figures for the cost of the new rebate?

**Mr Tilley**—These figures are estimates of the impact of the measure on the fiscal balance in the budget so they are a measure of the net impact on the fiscal balance. I should add that there are two related measures in the package. There is the wine equalisation tax producer rebate, which is the figures that you just referred to, and there is a related measure which appears immediately after that measure in Budget Paper No. 2 on

removing accelerated depreciation of grape vine plantings. So, to get the full impact of the two measures, you would need to net those two figures together.

**ACTING CHAIR**—Can you advise me whether the net of the current Commonwealth rebates—that is, \$16 million in 2004-05, \$17 million in 2005-06 and \$18 million in 2006-07—has been included in these figures that we have just been discussing in Budget Paper No. 2 or is it additional to those figures?

**Mr Colmer**—No, they are included in the first measure. They are net of that Commonwealth rebate.

**ACTING CHAIR**—I understand that the Treasurer proposes to take back from the states the value of the current state rebates below \$1 million in wholesale value. Are the estimates of the cost of the new rebate arrangement inclusive of the value of the state rebates under \$1 million in wholesale value?

**Mr Brown**—No, the value of any state rebate that may be reclaimed or not reclaimed is not included in that costing.

**ACTING CHAIR**—So you have not included it as an offset with the cost of the new rebate in Budget Paper No. 2?

**Mr Brown**—No.

**ACTING CHAIR**—Reading through the *Bills Digest*, I see that the Winemakers Federation estimates the value of the state rebates in 2004-05 at \$30 million. Do you agree with that figure?

**Mr Tilley**—We do not have an estimate of the state rebates. The states would individually publish that information. As Mr Brown has clarified, the costing that is provided by the government in Budget Paper No. 2 does not include an estimate for the value of the state rebates. It does include an estimate for the value of the Commonwealth rebate but not for the states'.

**ACTING CHAIR**—In your estimates you have not considered what you will recover from the state rebates in any shape or form?

**Mr Tilley**—It is not included in these estimates, no.

**ACTING CHAIR**—Other than in the estimates, have you considered the broader budgetary impact or the contribution that the state rebates can make to this legislation?

**Mr Tilley**—We would have looked at that in the course of advising the government in regard to this measure.

**Mr Free**—At the time the decision was made there had been letters from the state treasurers to the Treasurer indicating a willingness to pass over savings. However, there was no firm agreement on amounts. As the other witnesses have said, that was not specifically taken into account. With respect to the process since then, in response to a query from the Winemakers Federation the Treasurer indicated to the Winemakers Federation—and he also copied the letter to the state treasurers—that he would seek the savings that would accrue when they no longer provided assistance under state schemes to small winemakers, but, if the states wished to keep some residual schemes in place for wineries that might be otherwise affected, he would not seek to take those savings. The states are currently working on a paper to put to the government which looks at their state schemes and what types of residual schemes, if any, they might put in place. That paper has not been finalised. We are expecting it fairly shortly. Until we see that and until it is agreed by the states, we will not have a firm indication effectively of what the states might be putting on the table in response to the Commonwealth proposal.

**ACTING CHAIR**—You are saying it is due shortly. What kind of time frame are we considering here?

**Mr Free**—The last contact I had with the South Australian Treasury, who are coordinating the paper on behalf of the states, was last week. I could not give you a firm date, other than that they were in the final drafting stage and they had to get the agreement of their colleagues. I would expect it to be available shortly. Having spoken to the South Australian Treasury last week, I would expect it would be in the next week or two. I certainly would not say that I am expecting it tonight, tomorrow or anything as definite as that.

**ACTING CHAIR**—Will it be within the time frame of the committee's reporting date?

**Mr Free**—It may well be finalised in that time frame but I have no information that would allow me to say to you that I would expect it to be with us in the time frame indicated for reporting by the committee, which I understand is Wednesday afternoon.

**ACTING CHAIR**—With respect to the budget estimate of the cost of the rebate, how did you actually arrive at those figures?

**Mr Tilley**—The figures published in Budget Paper No. 2?

**ACTING CHAIR**—Yes.

**Mr Brown**—The estimates are derived using a combination of data from the Bureau of Statistics and the Australian Taxation Office. It is based on volumes of production at various levels by different sized wineries. So we obtain distributional information for the industry and apply assumptions regarding volume and value of production.

**ACTING CHAIR**—On the volume?

**Mr Brown**—Volumes and values of production by different sized wineries. You need a fair bit of distributional information to be able to model these kinds of proposals.

**ACTING CHAIR**—Surely the wine industry provides that kind of information for you. Wouldn't the best source of the data be the industry itself?

**Mr Brown**—I think that is where the Bureau of Statistics derive their information. There are a number of publications which they put out quite frequently that provide a reasonable degree of distributional information as well as information that can be derived on request from the bureau.

**ACTING CHAIR**—Did you say you used ATO information as well?

**Mr Brown**—In some cases, yes.

**ACTING CHAIR**—I understand that the wineries provide information on their business activity statements that you would be able to use to determine that.

**Mr Brown**—We can certainly obtain, on request, from the Australian Taxation Office, some information of a summary nature. We do not have access necessarily to the BAS forms themselves.

**ACTING CHAIR**—On the basis of that, how many wineries does the Commonwealth estimate will receive the rebate?

**Mr Tilley**—I understand that all wineries will have access to the measure.

**Mr Colmer**—I think it is important to make a distinction between 'winery' and 'producer', because the legislation is structured in such a way that it is producers that get the rebate rather than individual wineries. So, for example, the very large producers may have several operations and only get one rebate across the operation rather than for each individual winery that they might have.

**ACTING CHAIR**—How many producers are there?

**Mr Colmer**—That is another good question. There are in the order of 1,800 producers that we are aware of. Most of those are very small. The largest proportion of those producers produces less than 50,000 kilolitres a year, which is a very small winery.

**ACTING CHAIR**—There are 1,800 that you are aware of.

**Mr Colmer**—Of that order.

**ACTING CHAIR**—You suspect there are others that you are not aware of?

**Mr Colmer**—I just do not have the exact figure. I would not like the number of producers to get down to decimal points.

**ACTING CHAIR**—No. Of those 1,800 producers or so, how many will receive the rebate?

**Mr Colmer**—To get the full rebate you need to have production worth more than \$1 million a year.

**Mr Tilley**—That is to utilise the full rebate. They all have access to the full rebate. For a lot of those it will offset their entire tax liability. For others it will just offset the first million—that is, sales of up to \$1 million.

**Mr Free**—One point worth adding to that is that the rebate is of course structured where wine tax is payable, so it is domestic sales only that attract wine tax. It is not applicable to export sales, because no wine tax is applicable to export sales. So conceptually, if you had a small winery that exported a large amount of their production, the amount of wine attracting the rebate may well not represent their full production. But the benefit for them is because of the assessable deal in selling under the GST act—the GST does not apply to the exports and neither does the WET.

**ACTING CHAIR**—In your modelling around this legislation, how many do you expect will receive the full rebate?

**Mr Tilley**—Do you mean how many will offset their entire WET liability with the rebate?

**ACTING CHAIR**—Yes.

**Mr Tilley**—In Budget Paper No. 2 the estimate we provide is that we think around 90 per cent of wine producers will have their entire WET liability offset.

**Mr Brown**—If you take that figure and turn it on its head, you see that for a producer who has had their entire WET liability offset the likelihood is they will not be receiving the full \$290,000 benefit because in fact their tax liability was not as high as that, so it is the remaining 10 per cent who would be receiving the full amount.

**ACTING CHAIR**—In your modelling for this legislation have you determined your anticipated level of rebates? I am sure you must have done this. So you are saying that there are 10 per cent who will not get the full rebate?

**Mr Brown**—They will get the full amount.

**Mr Colmer**—There are 10 per cent who will still pay wine tax after the rebate. That means they get the full value of the rebate of \$290,000 but they have tax liabilities greater than that.

**ACTING CHAIR**—Are you able to provide the committee with information about how many in numbers you anticipate that will be and are you able to suggest how many will receive rebates of less than \$25,000, of \$25,000 to \$50,000, of \$75,000 to \$100,000? Are you able to actually provide a breakdown like that?

**Mr Tilley**—We certainly do not have that information available to us here. All we have got is the gross figure that around 90 per cent have their entire liability offset.

**ACTING CHAIR**—Of that 10 per cent, how many do you think will receive close to the full rebate?

**Mr Tilley**—It is the other way around. The 10 per cent left receive the full rebate but have some liability still on top of that.

**ACTING CHAIR**—Sorry, I see.

**Mr Tilley**—The 90 per cent that have their entire liability offset will not be able to use the full rebate that is available to them because they do not have sufficient tax liability to utilise the full rebate.

**ACTING CHAIR**—I refer to the numbers that you anticipate of those which will have rebates between certain amounts. If I were to put that question on notice to you, perhaps you could provide a breakdown of the number of wineries or producers that you are anticipating would have that kind of rebate. Is that possible?

**Mr Tilley**—We could take that question on notice.

**ACTING CHAIR**—Thank you. Reading through the explanatory memorandum and also the submissions to the committee, I note the industry did argue for a rebate set at the value of wholesale production, rather than for an exemption set on litres of production. Has the government estimated the domestic sales of wineries in litres, so by volume?

**Mr Colmer**—I am sure that figure is readily available from the ABS. It is the total annual production of wine.

**ACTING CHAIR**—In terms of your consideration, you must be able to determine how many wineries or producers had domestic sales of less than 50,000 litres. I refer to the ones that you mentioned before that would get the full rebate.

**Mr Colmer**—There is a problem in trying to translate a dollar value into a litre figure because it depends on the actual price and the mix of wine in the range of a particular winery, so the \$290,000 maximum rebate cannot be translated into a figure of litres except in some sort of average across the board sense which would probably end up being meaningless in practical terms.

**ACTING CHAIR**—Isn't that what the Winemakers Federation of Australia actually proposed?

**Mr Colmer**—The Winemakers Federation was originally proposing an exemption based on volume of production—that is correct. I think the government position has been that there are some significant difficulties in providing a volume based exemption on a wine tax which is applied to the value of wine. It actually creates a series of quite difficult and complex administrative problems to be resolved.



**ACTING CHAIR**—I appreciate that but I am sure you must know, somewhere along the line, how many wineries at particular levels of domestic sales there are or how many producers.

**Mr Tilley**—Are you talking about dollars, volume or value?

**ACTING CHAIR**—I am talking about volume.

**Mr Tilley**—I do not know that we have that. This measure is about an exemption by dollars. We have obviously done the costing of this. You are referring to a different proposal.

**Mr Colmer**—I would imagine the Winemakers Federation or the ABS would have some data on that.

**Mr Brown**—There is data available but it is mainly concentrated on larger producers. To get detailed information for very small producers is extremely difficult. The ABS do not collect information from producers below a certain size. I forget what the exact size cut-off is. When you start getting down there, it becomes the realm of a large number of assumptions about small producers to be able to get anything meaningful. Certainly, published information for the smaller producers, particularly around something like 50,000 litres, which I think was what you mentioned, is very difficult to find. In fact, I am not sure that information is available for producers as small as that from official sources.

**ACTING CHAIR**—I misunderstood; I thought that earlier you said you had looked at volumes and decided not to use that.

**Mr Brown**—With our modelling we have used the available information which gives us a good distribution for medium and large producers. To get very small producers requires a large number of assumptions in order to be able to work out impacts at that level. With the government's proposal that becomes a little bit more academic because all of the small producers are, in fact, covered by it.

**ACTING CHAIR**—Are you able to provide us with those general parameters that you have used in your assumptions?

**Mr Tilley**—We have looked at various things as part of advising the government on this policy measure. We have provided the advice that we have to the government, subject to the constraints that Mr Brown was just outlining. What we are probably more at liberty to talk about is a bit more about the measure that has been announced by the government.

**ACTING CHAIR**—So you cannot provide the committee with any additional information about your assumptions?

**Mr Tilley**—I am sure, as Mr Brown has done, that we can point the committee to the sources of the information. What we cannot provide you with, without further advice from the government, is the policy advice that we provided to the government.

**ACTING CHAIR**—If you could point us in that direction, it would certainly be a helpful part of the process.

**Mr Tilley**—It is really the ABS statistics. In terms of what information there is on industry breakdown by numbers of wineries and different sizes of wineries, the ABS provides some data but, as Mr Brown was saying, they do not have such good data at the very small end.

**Mr Brown**—The publications by the ABS are on wine and brandy production in Australia. I think it is ABS catalogue 1368.0 but don't take my word for that.

**ACTING CHAIR**—1368.0? I am impressed.

**Mr Brown**—That rings a bell but I am not quite sure.

**ACTING CHAIR**—We will certainly look there. My understanding then is that you seem to be a bit more confident about the value of sales of small wineries than you are about the production. Would that be fair to say?

**Mr Colmer**—We get the value of their sales as part of their reporting for their wine tax liabilities.

**ACTING CHAIR**—Going back to that point about sales as opposed to volume, how many wineries do we have that have domestic sales above 92 million litres? How many really big ones are there?

**Mr Colmer**—Again, you would have to ask us, 'At what price per litre?' for us to answer that question. We cannot really tell you about the volumes of productions from the data that we collect. The data that we collect through the tax system is based on the selling price, not the volume.

**Mr Tilley**—You would need to go to the ABS statistics to do the volume based estimates.

**ACTING CHAIR**—Are you telling me that you have not actually compared the volume and the value, in terms of assessing the best way to go?

**Mr Tilley**—No, I did not say we had not done that. We provide various advices to the government. We advise them on thinking about this policy option. I am really just trying to explain that there is a certain set of data from the ABS which is more volume based and there is other information from tax collections that we are able to access from the tax office. They are two different sources of information—one is based on tax collections and one is based on ABS data on production in the industry.

**ACTING CHAIR**—I accept that. I can put the other questions about domestic sales on notice.

**Senator MURRAY**—The officials at the table will be glad to know that I will not bash my head against the policy brick wall again by reminding them how foolish WET is and how much better the volumetric excise tax would be. I know you secretly agree with me, but nobody will let you say so.

**Mr Colmer**—Don't make too many assumptions. It could get us all into deep water.

**Senator MURRAY**—As you know, I am an economist, and an important part of economics is making assumptions. I have two issues. One is the question as to why there is no cut-off for larger producers—that it is effectively a regional incentive for small business rather than one for the entire industry—and why that would be difficult to do. The other question relates to whether we will have problems down the track with New Zealand, in terms of the advice in the *Bills Digest*. I do not know if that was covered earlier.

**ACTING CHAIR**—No, it was not.

**Senator MURRAY**—Perhaps we will deal with the first issue. I see this as an economic measure. It is designed to assist regional Australia and small producers primarily. As I understand it, 85 per cent of the benefit will go to small producers, but that means that 15 per cent will go to large producers, and I do not understand why they were not cut out through some mechanism.

**Mr Colmer**—Are you suggesting that we should not have produced a benefit for the large ones?

**Senator MURRAY**—Yes, absolutely.

**Mr Colmer**—I am not sure how we could actually answer that, except to say that, in terms of designing the rebate, it probably made it a cleaner design in order to apply it across the board. One of the problems that you always have in any policy issue is establishing boundaries. Where the cut-off may or may not be results in significantly more complexity in any program. Apart from that, I am not sure what else we could add.

**Senator CHAPMAN**—If it had been limited to small wineries, would there have been any way of preventing larger wineries from breaking themselves up into smaller wineries to attract the benefit?

**Mr Colmer**—That is always a risk.

**Senator MURRAY**—That was my next question.

**Mr Tilley**—In any proposal, when you are thinking about whether to give an exemption like this to all producers or all taxpayers in the category, the alternative is to claw it back in some way over a certain range. You get a version of high-effective marginal tax rates through that range. These are the issues to be considered in thinking about whether or not to claw back the concession.

**Senator MURRAY**—I am certain you have been subjected to the same lobbying as I and other people who are interested in this issue have been. That is why I say that this is an economic measure designed to assist regional Australia and regional tourism, really, as much as it is designed to assist wine production. When I view it in that context, I do not see how a large producer fits into that; though I am aware some large producers obviously run tourism and regional programs as well. Is the policy decision based around a difficulty in splitting it or a desire just to have one system which is easily applicable to the industry as a whole? Or did you not consider knocking out the large producers at all?

**Mr Colmer**—I think we are getting into the area of policy advice to government. I think we would have to say that the government decision was to apply the exemption across-the-board to all wine producers irrespective of size. Apart from that, I am not sure that we can really go much further into that without actually starting to talk about the policy decision-making processes of government.

**Senator MURRAY**—I respect that. Could you answer a practical question, if you do not mind? Is it possible to design the rebate system so that you exclude large producers and avoid the danger of them just restructuring themselves to make small entities which could take advantage of this?

**Mr Free**—There are existing provisions in the change concerning associated producers that are designed to ensure that large aggregated operations do not obtain multiple benefits. I think, as a design feature, the answer to your question is probably yes. But the government decision is to have it across-the-board and applicable to all wine producers just with that constraint of associated producers which would apply to both existing producers and, in instances where any splitting did occur to try and attract the rebate, it would still be caught by the associated producer provisions. Certainly from a tax design point of view, as Mr Tilley has said, if you have an across-the-board system, it leads to a lot less complexity. If you are trying to carve out certain organisations and completely take away eligibility from them, you get into difficult design issues.

**Senator MURRAY**—Moving to the second issue now. I am not sure whether you have seen *Bills Digest No. 9* of 28 July 2004, page 7, ‘Issue 1: WET rebate and the CER’. In summary, they suggest that the nature of the CER agreement is that you cannot have a tax cut for Australian producers which is not available to the New Zealand counterparts or as a subsidy, which is also limited to the Australian wine producers. They give two possible arguments and they detail the pro rebate argument and contra rebate argument. On the next page, they seem to incline to the view that there is validity to the contra rebate argument. Regardless of what you or I think, the fact is that this might be taken up in a court. I wonder if you could tell the committee whether you have had any advice concerning the agreement with New Zealand and whether there are any dangers in what has been proposed in this subsidy matter?

**Mr Colmer**—I need to be very careful about what I do and do not say on this issue. What I can say is that we have been working with the Department of Foreign Affairs and Trade and they have been in contact with New Zealand on these issues. DFAT are still examining the issues and I think there are some complexities around this case. It is certainly not a clear-cut case of saying whether it does or does not bear a particular relationship to CER or any other treaty. Our advice from DFAT is that they are still considering those legal issues.

I can also say that we have had discussions with New Zealand and have tried to clarify with New Zealand some of the issues around this. In particular, we have tried to provide advice to New Zealand on the likely impact of this measure in the marketplace. We do not anticipate that this will have any significant impact on New Zealand imports and we have been promoting that line with New Zealand. But fundamentally this is still a work in progress across the Tasman.

**Senator MURRAY**—On the face of the information available to me, I am not competent to judge whether there is a problem or not. This committee has been constituted on a reference to specifically look at the cost estimates of this measure and it occurs to me that, if the worst happened, Australia might find itself in a position where the easiest way to deal with a problem—and I say, ‘If the worst happened’—would be to pay across a subsidy to those New Zealanders selling wines into Australia, and that would raise the cost of the measure. This would be short of the alternatives of court action, reconstituting the agreement or reconstituting the rebate.

**Mr Colmer**—I do not have the figures with me, but the actual proportion of wine that is imported from New Zealand is fairly small in terms of the total wine market. I think it is certainly less than five per cent, but I would not like to be held to a figure on that. One observation that I would make, though, is that a lot of the wine ventures cross-Tasman are owned by conglomerates anyway. So it is not immediately clear what issues might arise from some of those cross-Tasman enterprises, given that the rebate is for a producer. The bottom line is that DFAT is looking at the legal issues. We have argued and still argue that there will be no significant impact on New Zealand wine sales from this measure. Until such time as there is some further clarification of the legal issues—and I am certainly not an expert in international trade—we will leave it up to DFAT. We are really not doing anything; we are waiting to see where it all goes from that international trade perspective.

**Senator MURRAY**—I said in my earlier remarks that there were two areas that I wanted to cover, but there is actually a third—and my question may reflect a lack of knowledge of the full detail of how the WET operates. With this change coming in, would it be possible for other countries—it might be a range of wine producing countries; Chile, South Africa, any of the European countries—to export their wine to Australia in bulk and have it bottled here and therefore be able to sell it tax-free because they would get the rebate up to that level?

**Mr Colmer**—I am not sure whether you have any comments on that, Mr Free. The rebate is aimed at producers. I have not given consideration to the specific issue that you raise.

**Senator MURRAY**—Let me explain why I do so. I think the litreage is now quite significant, you see, and might go to the possibility of volume export in bulk. It can be done in giant bags, as I understand it. That has

been done by wine exporters. My fear is that they will export it, drop in five per cent Australian wine, bottle it and—hey presto—there will be a Chilean mildly spattered Australian blend that is tax-free; a wonderful lurk!

**Mr Colmer**—The wording of the legislation is that you are entitled to a rebate for rebatable wine, which is a defined term. The bill reads:

*producer*, of \*rebatable wine, means an entity that \*manufactures the wine, or supplies to another entity the grapes, other fruit ... from which the wine is manufactured.

**Mr Free**—Rebatable wine applies to manufacture and manufacture includes the following: production, combining parts or ingredients so as to form an article or substance that is commercially distinct from the parts or ingredients and applying a treatment to foodstuffs as a process in preparing them for human consumption. Essentially, manufacture is defined at production. The type of operation that you have described, Senator, involves importing wine to Australia and then bottling that wine in Australia, which I doubt would be classified—

**Senator MURRAY**—But perhaps five per cent Australian wine could be added just to get over the threshold.

**Senator CHAPMAN**—That would be blending, not manufacturing.

**Mr Free**—That would not be production; it would be blending of wine. The issue of whether it would satisfy combining parts or ingredients so as to form an article or substance that is commercially distinct from the parts or ingredients is one which would be open to interpretation.

**Mr Colmer**—We have not considered the particular scenario that you have suggested. I am a bit loath to try and give any form of definitive advice on the run at the moment. The intention behind the legislation is for wine produced in Australia. Fundamentally, what we are dealing with is an interpretive issue. We are happy to take that on notice and get back to you. My preliminary view would be that that would not be allowed—and it is certainly not our intention that it would be allowed—but I think it would be far better for us to take that on notice and get back to you, if you do want us to look at that seriously.

**Senator MURRAY**—I wonder if you would not mind. My memory tells me that the way in which bulk wine was exported from South Africa to England, for instance, was in giant black bags. It was then bottled overseas and could be transformed to a blended product. I would just hate to see a well-intentioned policy measure have an unintended consequence of letting cheap imports rip the guts out of the regional producers.

**Mr Colmer**—That is not the intention. At a quick look, I do not think it could happen but I would rather have some time to ponder that.

**Senator MURRAY**—If you could reassure the committee, that would be good.

**Mr Colmer**—I do not believe that is a serious potential outcome.

**ACTING CHAIR**—Gentlemen, thank you very much for your attendance. Before we conclude, I wonder whether or not you have any comments or any response to make to the submissions. I do not know if you have had a chance to see the submissions, but there were some issues raised there that I wanted to give you the opportunity to respond to.

**Mr Free**—We have seen those submissions. We think that some of the propositions put in those submissions take some fairly extreme worst-case scenarios. They make leaps from cases that have occurred under different acts some time ago and then apply interpretations which seem to us to be fairly far-fetched and in some cases would be quite unreasonable. We think in the totality of legislation it is fairly clear what the intention is on the compliance measure or revenue protection measure, which is a particular focus of some of the submissions. We do not consider that the bill should be delayed for the reasons set out in those submissions.

**ACTING CHAIR**—Thank you very much for your comments. As Senator Murray said, the bill was referred to this committee to examine the costings but those other issues were raised—and we have not really had much of a chance to consider their relevance to this current legislation so we appreciate your comments. I indicated earlier that I was going to put some questions on notice to you to get some detail, as did Senator Murray. We are intending to report on this bill tomorrow. I understand that you may not get your responses back to us, but we will table the answers at a later date. Thank you very much for your time this evening.

**Committee adjourned at 7.26 p.m.**