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Official Committee Hansard

SENATE

COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Reference: Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005

WEDNESDAY, 19 JULY 2006

SYDNEY

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SENATE

COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Wednesday, 19 July 2006

Members: Senator Humphries *(Chair)*, Senator Moore *(Deputy Chair)*, Senators Adams, Barnett, Nettle and Polley

Substitute members: Senator Stott Despoja for Senator Nettle.

Participating members: Senators Abetz, Allison, Bartlett, Bernardi, Mark Bishop, Boswell, Bob Brown, Carol Brown, George Campbell, Carr, Chapman, Colebeck, Coonan, Crossin, Eggleston, Evans, Faulkner, Ferris, Fielding, Forshaw, Heffernan, Hogg, Hurley, Joyce, Lightfoot, Ludwig, Lundy, Mackay, McEwen, McGauran, McLucas, Milne, Nash, Nettle, O'Brien, Parry, Patterson, Payne, Robert Ray, Siewert, Stephens, Stott Despoja, Watson, Webber, Wong and Wortley

Senators in attendance: Senators Adams, Barnett, Humphrey, Moore, Nettle, Polley, Stott Despoja and Webber

Terms of reference for the inquiry:

Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005.

WITNESSES

Committee met at 9.02 am

WOOLF, Ms Kath, President, ACT Right to Life Association

VOUT, Dr Brigid, Executive Officer, Life Office, Catholic Archdiocese of Sydney

NANCARROW, Mrs Margo, Convenor, National Bioethics Working Party, Catholic Women's League Australia Inc.

McAULEY, Mr Michael, Chairman, Council of Bioethics Committee, NSW Right to Life Association

McCAFFERY, Dr Simon, President, NSW Right to Life Association

CHAIR (Senator Humphries)—The committee is inquiring into the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005. To enable the committee to hear from as many witnesses as possible, the program for this session, as for the rest of this week, has been organised for groups of witnesses to occupy each time slot. A representative of each group will be invited to make a short opening statement and then committee members will ask questions of the group concerned. Welcome to you all. I think a number of you are experienced presenters at parliamentary committees but, to refresh your memory, you have been provided with information on parliamentary privilege and on the protection of witnesses and evidence. I invite each of you at the table to make a short opening statement, and at the conclusion of that we will proceed to ask you questions.

Mrs Nancarrow—Thank you for the opportunity to talk to the submission already presented on behalf of the Catholic Women's League Australia, CWLA to most people, and to discuss this bill with you. Our membership of about 7,000 women has a commitment to the dignity of women, the value of human life and the maintenance of a caring and compassionate society, which we demonstrate in various ways. The Catholic Women's League and the members support, in principle, transparent advertising and notification of pregnancy counselling services—indeed, truth in advertising in relation to all sorts of counselling services. There were, though, some matters in the proposed bill that caused us some disquiet. I listed those in the document, but I will remind you.

There was possible confusion regarding some of the nomenclature in the proposed bill, particularly with regard to the difference between non-directive pregnancy counselling service and pregnancy counselling service, which as you know is well outlined. The other thing that was of concern was the requirement for advertising or notification of pregnancy counselling services and the restriction of telephone listings. It seems to me that the notion of telephone listings has already been addressed and I was wondering why we are going back there. We also read that there was presumption in the bill that anti-abortion actually means anti-choice, and that is not our bailiwick. There seems to be uncertainty regarding the relationship between the Commonwealth and states in this matter in section (3)—the definition of 'person' in that area. We think those objects are fine, apart from the one related to public health. We do not see any evidence or can recall any evidence that there would be an improvement in public health as a result of this bill.

The other issue was the apparent intent to ensure that all counselling services for pregnant women include referral for terminations. That was a big worry for us, as you can imagine. We

also thought that it was unfortunate that it could be assumed that the bill has been proposed because of the presumption that pro-life pregnancy counselling is misleading and deceptive, and we do not agree with that. There was a sense throughout our members in Australia that the proposed bill questions the integrity of those organisations and persons who already provide pregnancy counselling services, and we did worry about that. We also thought that, considering the pregnancy help type entries already in the 24-hour help pages in the telephone directories carry information indicating that they are not abortion services and that they offer alternatives to abortion, the bill is slightly superfluous in that area. That is all I would like to say at the moment.

Dr Vout—Thank you for the opportunity to appear before you today on behalf of the Life Office, which is an agency of the Catholic archdiocese of Sydney that undertakes research, policy development and education about biomedical and life issues. Transparent and truthful advertising and notification is important for any counselling service. I am concerned by several aspects of this bill, and I make five points. Firstly, the bill implies that the capacity for referral, including referral to medical services like the termination of pregnancy, is a necessary component of non-directive counselling. I disagree with this definition. Non-directive counselling is where clients are given the opportunity to clarify thoughts and feelings regarding their situation and options without being directed towards a particular decision. Within this general counselling approach, pregnancy counselling ends with a woman making her own decision about a course of action. It does not necessarily extend to the provision of assistance and support in carrying out this decision.

Secondly, making referrals for termination, where requested, a necessary requirement of non-directive counselling would exclude Catholic health care services from providing this type of counselling. Our code of ethical standards prohibits Catholic facilities from referring to abortions. This position would also be taken by Catholic counselling services and, I suspect, many non-Catholic Christian agencies, some non-Christian agencies, as well as many individual practitioners.

My third point is that to single out services that do not provide referrals for terminations, to subject them to rigorous and perhaps unreasonable advertising or notification requirements—for instance, by insisting that they describe services which they do not provide—and to prohibit their listing in 24-hour health and help directories could be read by many as ideological and discriminatory. Polls suggest that people are in fact much more concerned about the lack of objectivity of abortion providers who provide counselling, and yet this bill does not put the same sort of pressure upon them to say up front what they do not provide.

My fourth point is that the bill's overly broad definition of a pregnancy counselling service would extend to a wide range of advice and information on pregnancy and childbirth provided by Catholic health care and social services which is unrelated to abortion. We are concerned that, unless significant amendments are made to the bill, these hospitals and services may be required to include a statement that they do not refer women to termination services in all of their advertising or notification material in order to avoid charges of misleading or deceptive conduct.

My fifth point is that this bill would singularly disadvantage the types of services which, in addition to genuine non-directive counselling, provide a significant range of advisory and

positive support services to women about practical alternatives to abortion. Again, polls show that 58 per cent of the community would not know where to refer a woman for alternative support services during pregnancy. How can banning these services from advertising in 24-hour health and help line directories help women to access this type of assistance? This bill does nothing to increase women's options and support; in fact, it seems determined to somewhat narrow them.

In conclusion, this bill misses the mark on the public's real concern, which is a desire to see less abortion, more alternatives provided, counselling for pregnant women to consider such alternatives and support for them if they do.

Ms Woolf—We appreciate the opportunity to address this committee. This statement is made on behalf of the ACT Right to Life Association, of which I am president. The bill is a transparent attempt, we believe, to severely disadvantage those pregnancy counselling services which assist women with real alternatives to abortion by providing material and emotional support to alleviate problems that may be experienced in pregnancy. The bill's provisions serve, first, to entrench inappropriately in legislation a theory of counselling that is based on a misunderstanding of both the theory and practice of counselling.

The bill also serves to defame and denigrate pregnancy support services by accusing them of providing misinformation and by dubbing them 'false providers'. This term was in fact invented by a panel of pro-abortion activists commissioned by the National Health and Medical Research Council to produce a paper on pregnancy in 1995. The term was subsequently disowned by the council and the publication withdrawn because of inaccuracies. Nonetheless, the pejorative term continues to be wrongly attributed. You can see submission 39, from the Association for the Legal Right to Abortion (WA), as evidence of this. Unfortunately, it also misleads persons to consider that it has some authoritative providence. See submission 76, from the Australian Consumers Association.

The bill also serves to punish, by ludicrously large fines, any individual or pregnancy-counselling service for advertising honestly those services which they do offer but declining to characterise them by explicit reference to their position on abortion. There is no sanction suggested for those abortion counsellors who hide vital information from women—I can address this later. The bill would similarly threaten advertisers who displease any person prejudiced against pregnancy-counselling services that are not avowedly pro-abortion—see submission 34 from Sensis, the advertising subsidiary of Telstra. This organisation has been subjected to unfair pressure, in fact, to change its advertising methods. The bill's provisions impose a strict censorship completely at odds with an open and free society.

The bill also serves to present, in a misleading manner, the function of the term 'referral'. It is indisputable that no referral is needed to access abortion providers—see submission 84 from the pro-abortion Bessie Smyth Foundation and certain Yellow Pages and advertising material which I can provide today. The bill also serves to promote the impression that abortion simply can be chosen by a woman, and that her autonomy demands that her decision—presumably formed before approaching a counselling service—must not be influenced or informed by any objective information or by any offer of assistance with problems she is experiencing with maintaining the pregnancy. But in fact there are legal

restrictions on the procuring of abortion in every Australian jurisdiction with the exception of the Australian Capital Territory.

The bill also serves to proscribe the Commonwealth from funding states and territories to support any counselling services which are not willing to assist the abortion industry by directing women to abortion providers. For all these reasons our association urges that the committee recommend to the parliament that it reject the bill in its entirety.

CHAIR—Thank you. Who would like to speak for NSW Right to Life? Dr McCaffrey.

Dr McCaffrey—Thanks very much for this opportunity to appear before the Senate committee. I am an obstetrician and gynaecologist practising in Sydney's south-west. I am also president of Right to Life, New South Wales. I have been practising in the Liverpool and Campbelltown areas for over 20 years. In that time I have been referred hundreds of women for abortion counselling. When I started practising I informed all general practitioners in the area that, whilst I did not perform abortions, I was happy to see women considering abortion—at no expense to themselves—to provide accurate information on abortion as well as providing emotional and material support to assist in their decision making. I have learnt that the decision to abort is most often a heartfelt one that results from a conviction that no other options are available.

However, it has been my experience that this decision is often motivated by a lack of emotional, social or material support. Hence the aim of pregnancy counselling is to listen to the woman, to understand her predicament, to empathise with her decision and to provide immediate and ongoing support so that her final decision is free of any overt or subtle pressures. This takes time. Often I have found it takes a minimum of three-quarters of an hour and it often extends to several hours. It also requires a period of reflection to assist in the impartiality of a final decision.

This ability to counsel with compassion and empathy is mutually exclusive of any ability or requirement to refer for termination of pregnancy. Impartial or non-directive counselling is determined by providing the woman with as many options to choose freely, not by an ability or an inability to refer for abortion. In fact, I would argue that referral for abortion may be counterproductive to genuine pregnancy counselling since it allows a tired counsellor to short-circuit their primary role of listening and providing options to an often distressed and/or depressed woman.

Referral for termination of pregnancy, a medical procedure associated with not insignificant complications and adverse sequelae, should be the role of clinicians. Valid consent and referral for medical procedures is necessary for good medical practice. This is not the role of pregnancy counselling services. I have never come across a woman who is not able to access an abortion provider in the city of Sydney. Real choice is about options and freedom from discriminatory pressures. This can best be achieved without any necessity for direct abortion referral. Thank you very much.

CHAIR—Thank you very much to each of you for those opening presentations. Could I start by asking Mrs Woolf about the ACT Right to Life submission. You make reference on page 6 to a number of misleading practices you say go on within the sector associated with providing abortions. You refer, for example, to the sorts of euphemisms that are used in place

of an unborn child. Where would we find information about that? Is that anecdotal evidence or is there evidence from a document that is produced by the industry?

Mrs Woolf—The quotation at the top of page 6 is from the draft of *Services for the termination of pregnancy in Australia* prepared in 1995. In the previous pages I cover how this task was commissioned by the National Health and Medical Research Council to a panel of women, all of whom were involved in the provision, management and advocacy of abortion. They produced this draft paper in 1995 and put it out for community comment. The first quotation is from page 32 of that draft, where it actually says that a sensitive counsellor should not make the ultrasound screen, which is used in abortion clinics to determine exactly the developmental stage of the foetus, visible to the patient. I can provide all those documents to the committee. They were obtained by the ACT Right to Life Association by a freedom of information request to the National Health and Medical Research Council in 2001. Submissions were not normally in those days put up on the net. So to get the submissions, the draft and the minutes of the National Health and Medical Research Council where they finally abandoned completely this paper in its second stage, was obtained by FOI. Therefore, the council is not the author of the phrase 'false providers'.

The others are common knowledge. In other words, I can give you papers to support the quotation on page 6. General things like 'product of conception', 'contents of the uterus', 'blob of tissue' are common linguistic dodges that are used, quite contrary to biological knowledge. I can also provide the source of the 'relevant anatomical sites' for an abortion procedure showing no baby. That is also in the draft. I have all these documents in a box and I can bring them to the parliament if you wish.

CHAIR—You can provide those to the committee?

Mrs Woolf—I can, yes.

CHAIR—Thank you. I also refer to the submission from the New South Wales Right to Life Association. In paragraph 8 of that submission it says:

Most 'decision counselling' is provided by abortion providers on the day of the abortion.

Is that anecdotal or is there actually evidence that we can produce to demonstrate that?

Dr McCaffrey—I will try address that. I have a copy here of Marie Stopes International's *Abortion: your questions answered*. Marie Stopes provide the majority of the preterm, freestanding abortion clinics in Australia. They point out:

If you would like to speak to an experienced counsellor prior to your consultation, please phone us on **Freecall ...**

When you ring that freecall number there is, more often than not, a recorded message. The brochure goes on to say:

... If, however, you feel comfortable with your decision you may not feel you need counselling. It is entirely your choice.

The report I often get back is that abortion counselling, if any, is done on the day of going to the clinic. But, as I said, it is pointed out that it is only there if you feel you may need counselling.

Mrs Woolf—In our small Yellow Pages from the Canberra-Queanbeyan district, which the chair would be quite familiar with, on pages 1125 and 1126 there are ads for abortion services. There is Marie Stopes International, referred to by Dr McCaffrey, where same-day service is available. There is another ad from the Private Clinic, which has a same-day, no referral necessary service, which is odd, considering the bill's insistence on referrals. The back directory of the magazine *Good Medicine* mentions unplanned pregnancy—caring, immediate, no referral necessary—and gives a website for abortion help at Marie Stopes International. All that is just from one small area's Yellow Pages. I am sure people could provide similar ads from any Yellow Pages directory. But the emphasis on same-day, immediate, no referral necessary service is a very common component of abortion service ads.

Senator MOORE—I have some general questions, but I want to follow up on your comment there. What is not honest in that advertisement that you have just spoken about from Marie Stopes? What is not transparent in that particular advertisement?

Mrs Woolf—I did not say anything was not transparent.

Senator MOORE—But the focus of this particular bill is transparency of advertising. I am just trying to find out, and taking aside people's particular views on the issue—and I think it is agreed that people in this discussion will have considerably different views about what women's choices should be, and I think that is fine; I think we need to have that on the table—what your problem with this ad is. We have the Yellow Pages as well, because in terms of the advertising process people mainly use telephone books to find things. I am just trying to clarify straight off—and I would like all of you to comment, because it is the easiest way of doing it—as you drew the attention to the advertisement in the Yellow Pages, what complaint do you have about the transparency of advertising in that advertisement?

Mrs Woolf—I have no complaint about the transparency of it. It is all very well that the bill's title is 'A Bill for an Act to prohibit misleading or deceptive advertising or notification of pregnancy counselling services, and for related purposes', but the general statement of purpose in the bill does not get down to the nitty-gritty of the provisions, and the provisions require one to say, 'We do not refer for abortion.'

Senator MOORE—Or that we do.

Mrs Woolf—Quite so, but the senator's speech on the second reading makes it quite clear. In the definitions of the bill, we find under 'non-directive pregnancy counselling service'—which knocks out anyone who does not agree with this definition—that the pregnancy options are:

(a) raising the child; or

(b) adoption; or

(c) termination of pregnancy

Everyone knows they are the three options. But the definition also says:

... and will provide referrals to termination of pregnancy services where requested.

Why? No referral is necessary, as the ads demonstrate. I was not attacking their transparency; I was wondering why the bill is bothered about someone needing to provide a referral when no referral is necessary. That was my point.

Senator MOORE—I know that we will get into the definitions through the discussion, but the intent of the bill—and the process of this committee is to try and get together as much information as possible to make the bill as effective as possible—is to ensure that, when a person who is pregnant seeks information from any service which says they are going to provide pregnancy counselling, they will have access to all referrals.

Mrs Woolf—No.

Senator BARNETT—Mr Chairman, I would like to raise a point of order. Yesterday we had Senator Stott Despoja saying 'the intent of the bill is to do this' and Senator Moore has said it just now, but we have heard from the witnesses their responses to and their views on specific sections in the bill. Surely we are entitled to hear from the witnesses their views on and their interpretations of the sections in the bill and it is not for senators around this table to keep saying to the witnesses 'the intent of the bill is this'. They are simply sharing their views on the bill.

CHAIR—It goes to the way that people ask questions, I suppose.

Senator MOORE—Chair, my hope was that, through this process, we could work together to look at what the bill was hoping to do, to look at the issues that people have with it and to try to work together to come up with an outcome. It may or may not be agreed. I certainly do no believe that I have in any way debated with witnesses or put words into their mouths. I was trying to find out, with the four pages of draft legislation in front of us, where people have issues and where we can move along. That is why I keep talking about the intent of the bill.

Mrs Woolf—Can I please finish my answer?

Senator MOORE—I am sorry, Mrs Woolf, but it was not me who stopped you.

CHAIR—Please let Mrs Woolf finish.

Mrs Woolf—Intents of bills do not bring them into effect. It is the provisions in a bill. If there is any doubt about the interpretation of a provision in a bill, of course the court can refer to its purpose clauses. I am well aware of how bills work. You said there is nothing in the same two pages of our little Yellow Pages for Canberra and Queanbeyan that is not transparent. Quite so.

Senator MOORE—Excuse me, Mrs Woolf, I did not say that.

Mrs Woolf—You said, 'What was not transparent in those ads?'

Senator MOORE—I asked you, yes.

Mrs Woolf—Well, nothing.

Senator MOORE—Of course.

Mrs Woolf—On the previous page, under 'Pregnancy counselling and related services', there is an ad for Karinya House and words like 'pregnant and upset?' and other words like 'emotional support' and 'practical assistance'. What is not transparent about those? Just taking

a snatch from various sources, Pregnancy Counselling Australia describes itself as offering 'alternatives to abortion' and 'post abortion counselling'. Pregnancy Help Line describes itself as offering 'pregnancy options' and 'alternatives to abortions'. With respect, might one ask the senator what is not transparent about those ads?

Senator MOORE—What was the last one you mentioned?

Mrs Woolf—The Pregnancy Help Line. These are from the Bessie Smyth submission. Other witnesses may have the actual documents. They say things like 'pregnancy options' and 'alternatives to abortions'. Are women so helpless and so unintelligent that they cannot work out what a service is offering? Why is the emphasis on what someone says in an advertisement? The senator cites the Trade Practices Act and her wish to extend it to goods and services that are not provided for profit. That is fine, but when you are trying to bring an action against a provider of goods and services under the Trades Practices Act or the fair trading acts of the states it rests on what is said in the ad and on what the product provided is. I think a lot of this debate should shift to what goes on when people actually get to these counselling services; whether they are pro abortion or pro life, what is the range of counselling that goes on. Later, I would like to refer to some of the material from other submissions, like the Bessie Smyth Foundation submission, which gives one severe concerns as to how objective and impartial that is. Just talking about the Trades Practices Act does not help you; you have to follow through and see what the product is. It is the product of abortion counselling services, tied as they are to the abortion industry in many cases, which is the true cause for concern.

Senator MOORE—We will have to agree to disagree on that, Mrs Woolf. But our intent with this legislation—and I am going to keep using this term because I am quite comfortable about the intent of the legislation in terms of what we are doing in this particular process—is to try to ensure that any woman in the community or her family, when seeking information about what is available to her if she is pregnant, will have an open choice when looking at any of the advertising material. If they are looking around a decision, it may be that they are looking around for some support for referrals on, but we want to have absolute certainty that women will have that security in their choice.

Mrs Woolf—Again, with respect, proposed section 5 does not say 'information' about options. Pregnancy support counselling services that I know of give all the information you want about abortion. Abortion is an objective matter; it is a medical service—Dr McCaffrey said much about it in his statement—and you can provide the information. Proposed section 5 says a non-directive counselling service is defined as one which will inform you about the options and refer you. You cannot get away from the actual content of the bill.

Senator MOORE—It is proposed section 3.

Mrs Woolf—Thank you. That is all I wish to say about it. That is too argumentative.

Senator MOORE—I am sorry if it was seen as argumentative. It is about clarity.

Mrs Woolf—The intent of the bill will not get you anywhere if the bill is not properly drafted.

Senator MOORE—And that is exactly the purpose of the committee: to actually have draft legislation in front of all of us so that we can actually clarify what people see and we can get that process—

Mrs Woolf—So the proponent of the bill is prepared to withdraw perhaps the requirement for referral to a termination service?

Senator MOORE—Perhaps, Mrs Woolf, you could actually have that discussion with the proponent of the bill. At the moment we are actually dealing with the process.

Mrs Woolf—I would be very happy—

CHAIR—Senator, can we have some questions.

Senator MOORE—Yes, I have a question in terms of the information that has been given to all of us. What is the concern of the various organisations with the kinds of statements—in any advertising that is out there around a service—saying that they are going to provide pregnancy counselling and clearly indicating in the advertisement that they are either supportive of giving information on the three options or are not? What is the problem with that?

Mrs Woolf—Because that is not the end of proposed section 5. Proposed section 5 is information about the three options. May we read into the record again what proposed section 5—sorry, it is proposed section 3; the dictionary part; the definitions—says?

CHAIR—Yes.

Mrs Woolf—It says:

non-directive pregnancy counselling service—

which is the flagship or the standard that you must meet to get through, involves:

(a) raising the child; or

(b) adoption; or

(c) termination ...

and will provide referrals to termination of pregnancy services where requested.

That is a big step beyond 'information'. I cannot say it any differently.

Senator MOORE—That was not my question. I will try again.

Mrs Woolf—I am sorry. I know the bill well.

Senator MOORE—I will try again, Chair, with my question, which was for the people in front of us. What is the problem with the process of an advertisement having, as we are asking for in this bill, some information along the lines of the ad that we saw yesterday, which actually said something along the lines of 'alternatives to abortion', so it is clear that, as a potential client, if I wish to have a counselling discussion that includes information about abortion I may seek another service?

Mrs Woolf—When—

Senator MOORE—I am sorry, but can I get a discussion with someone else. It would be useful for my purposes.

Dr Vout—Senator Moore, I think those two ads—I think they refer to the Pregnancy Help Line and Pregnancy Counselling Australia—

Senator MOORE—Yes, Pregnancy Counselling Australia was the one we got yesterday.

Dr Vout—I think they are a very clear statement, one that is transparent and is in no way misleading. A woman that was accessing that would be able to see alternatives to abortion. I suppose the additional concern I would lay upon that is that there appears to be also a move to say that these counselling services also do not provide non-directive counselling. I think that is where they would have an issue. They would say, 'Yes, we do provide non-directive counselling. In addition to that, we provide additional information and support about two pregnancy options in particular but we decline to offer information about the third.' So I think that as it stands it is a good ad. It would give them information. It would provide them with a way forward as well if that is what they so wished.

Senator MOORE—Mrs Nancarrow, in terms of your position, what is the problem with any service that is not comfortable with providing information or referrals to abortion stating that publicly?

Mrs Nancarrow—Thank you, but I think we do need to separate out 'information about and referral to'. I think that is the main sticking point in fact.

Senator MOORE—From your point of view, that is the key sticking point?

Mrs Nancarrow—Yes. I have an issue with non-directive pregnancy counselling, but we can come to that later. It is another issue that is much broader than what this room can attack at the moment. But the difference is giving information and referring to an abortion service. There is nothing to stop any of the 55 agencies listed on the internet and in the Yellow Pages from giving information about abortion. It is not the information we are concerned about. We are able to give information about abortion, but referral to abortion is another matter. We seem to be including both of them in the same sentence. I am saying information about and referral for are different. That is what I wanted to say.

Dr Vout—I would like to add to that. While I think they are clear and transparent advertisements, I am also aware that this bill, by redefining non-direct pregnancy counselling, would mean that we would not even see those ads in the 24-hour health call directory. I certainly have a problem with that. In my opening statement, I talked about how an unfortunate effect of the bill would be narrowing those options. I think that is a clear example of what could happen if that definition carried through.

Senator MOORE—So that is section 7. You raised that in your opening statement, so we have noted that one.

Dr Vout—Thank you.

Senator MOORE—Dr McCaffrey and Mr McAuley, do you have any comments about the issue of an advertisement clearly stating that the service does not refer or provide information—or whatever terminology would give that information—about abortion services?

Dr McCaffrey—I do not have a problem with making the ads as transparent as possible. I do have a problem with the statement in Senator Stott Despoja's second reading speech, when she said:

… and will provide referrals to terminations of pregnancy services where requested.

This is a problem I have with this bill. I do not believe, after years and years of experience, that it is necessary for pregnancy help counselling to refer directly for termination of pregnancy. I think that the bill would exclude many professional and compassionate people who have been involved in very effective pregnancy counselling, and to whom many women are indebted for the rest of their lives for that counselling. I believe that the unintended effect may be counter-productive to genuine counselling in terms of the emotional effort involved in pregnancy counselling. To some extent, that ability to empathise with a very distressed woman requires a lot of time and a lot of emotional effort for that woman to feel that there is somebody on the other end of the phone or sitting down with her who is trying to understand her predicament and at least provide her with options should she so desire. If there is an access to refer for terminations of pregnancy, it is in human nature occasionally, if you are tired, to use that facility rather than explore what I believe is the true nature of pregnancy counselling. That is all I would say. Michael, you might have something to add to that.

Senator MOORE—Mr McAuley, do you want to have a go? You have been very quiet.

Mr McAuley—It is very unwise to ask a lawyer to comment on what an obstetrician has said.

Senator MOORE—Is it very unwise to ask a lawyer to make a comment on advertising?

Mr McAuley—It is probably very unwise to invite a lawyer to say much at all, but I will.

Senator MOORE—Just call me unwise.

Mr McAuley—No, I am not calling you unwise, not at all. The difficulty I have personally with this bill is not in the objects. It seems to me there can be no reasonable argument against transparency or truthfulness. The real question is how one arrives at those objects. If one goes to the Yellow Pages, depending on the particular edition, there is a heading that says something like 'Pregnancy termination'. If you turn to that and you look down the list of organisations, you know you are going to a pregnancy termination organisation, so there is total transparency. There is also a heading—it may vary—'Pregnancy counselling'—

Senator MOORE—Yes, usually just ahead of it.

Mr McAuley—Perhaps it would be better if that heading was 'Pregnancy support' so as to distinguish the two types of organisations. But there can be no problem from my point of view in suggesting that certain organisations perform abortions and certain organisations assist pregnant women to cope with the various difficulties they have with a pregnancy. I have a big problem with section 7 of this legislation because the fact of the matter is in a pluralist society there will be a wide variety of views about a subject like abortion. I do not believe there would be a single person in this room who would not have in their heart of hearts a strong view about abortion. The great difficulty with section 7 is that it knocks certain people out of involvement as far as helping pregnant women is concerned. It goes beyond what in my submission is regarded as reasonable. It offends against the basic principle of free speech in our society. That is the difficulty.

Perhaps at the risk of overextending my say, the second problem I have with this proposed bill is that it seems to be directed at pregnancy support groups. It seems that it is not even-

handed. In the Australian community there is a reluctance about abortion. There is a widespread support for abortion as an alternative but there is a reluctance about abortion. There is a real difficulty as far as abortion providers are concerned in terms of the type of counselling, if any, they are providing. If one is going to talk about transparency and truthfulness, that is something that needs to be addressed. In my submission I say that the appropriate way to do that is to provide for pregnant women who are considering the possibility of abortion the possibility of truly independent counselling, not on the day of the termination, not from the abortion provider, but from some genuinely independent person or group two or three days beforehand, with truly objective information in relation to the nature of the abortion, the pros and cons and the alternative. The bill is laudable in its objects but it fails the means by which it seeks to achieve those objects.

Senator MOORE—The process you just described would be voluntary?

Mr McAuley—Obviously.

Senator MOORE—That is really important in terms of the process you have spelled out. If a person chooses to access that service, your preferred process would be the kind you are describing?

Mr McAuley—Women should have an option.

Senator MOORE—Thank you, Mr McAuley.

Senator ADAMS—Dr McCaffrey, yesterday we had quite a lengthy debate with a number of witnesses about breast cancer being caused by abortion. I note here with your informing women as to risks of abortion you comment:

Anecdotal evidence suggests that abortion providers rarely inform women considering abortion as to the risks of undergoing an abortion (eg. breast cancer, placenta praevia, premature birth, depression)

Do you have any documented evidence that breast cancer is a cause or a symptom of having had an abortion?

Dr McCaffrey—That is a very good question. Epidemiologists around the world move in and out of both schools. Very few believe there is no evidence. Some believe there is direct evidence and many believe there is indirect evidence. It would be fair to say that American and British obstetricians and gynaecologists believe, more so than obstetricians in Australia, that the link is strong. So, to some extent, the jury is out. A fair comment would be that there is evidence that there could be a link, but you could not say that there is no link. There is a definite link, but whether it is a direct link is still being ascertained.

Senator ADAMS—Are you aware that in 2005 the Royal Australian and New Zealand College of Obstetricians and Gynaecologists published *Termination of pregnancy: a resource for health professionals*? Have you read that?

Dr McCaffrey—I have.

Senator ADAMS—In that they say:

The evidence does not support an association between termination of pregnancy and infertility, ectopic pregnancy or breast cancer.

It goes on to say that this analysis of data comes from '53 studies including 83,000 women with breast cancer' and concluded:

... pregnancies that end as a spontaneous or induced abortion do not increase a women's risk of developing breast cancer.

The American study included over 1½ million people, so it worries me that this is something that is being pushed very hard by a group of people who are saying, 'If you have an abortion, you will get breast cancer.' I am not talking about you, but because it was there I wanted to raise it.

Dr McCaffrey—Of course. I am familiar with the material you have put forward. As I said to you, epidemiologists and obstetricians in America do not follow the same line as the Royal Australian College of Obstetricians and Gynaecologists. If my memory is correct, a court case in America was run on the basis that a woman was not informed of a possible link between breast cancer and abortion, and she subsequently won the case. All I am putting to you is that it would be fair to say that the jury is still out. I do not feel it is fair to say that there is no link between the two, because there is definitely evidence of a link between the two. But the information as to whether you can categorically say that there is a direct link may still be pending. I could forward you as much information suggesting a link.

Senator ADAMS—I have here an article which states that the American College of Obstetricians and Gynaecologists say:

... rigorous recent studies argue against a causal relationship between induced abortion and a subsequent increase in breast cancer ...

Dr McCaffrey—The important words are 'causal relationship'. There is a relationship; is it causal? It is very important to—

Senator ADAMS—I am trying to get to the bottom of the fact that this is being used because breast cancer is a fairly high-profile issue. This argument is being used all the time and that is why I wanted to raise it here today. We had quite a debate about it in Melbourne yesterday and I guess that if we go to Adelaide it will be the same.

Dr McCaffrey—Of course.

Senator ADAMS—Mrs Woolf, we had the Australian Medical Association give evidence in Canberra. They stated that pregnancy counselling services should disclose their particular ideologies upfront to potential clients and that they feel that they do not refer for terminations. They look at the situation where a person goes to a pregnancy counselling service and does not realise that the three options are not going to be discussed. It could take a lot longer for that person to make a decision if they cannot get all the information they need from that particular counselling service. They say the advertising should be clearer, so that a woman wanting to explore the three options could go to a counselling service knowing that she was going to be able to. As far as her pregnancy went, the time she had taken going to one and then finding somewhere else to go would, of course, increase the time of her pregnancy. Maybe, if the advertising was a little clearer, the number of later-term terminations would not be what it has been in the past. How do you feel about that? It is really about the fact that a woman goes to a service that is not what she thought it was going to be. She is not going to

get the information there; therefore she has to go away and find another service, and she may not be told how to find that particular service.

Mrs Woolf—I cannot answer for Dr Haikerwal. I was at those hearings. I do not know what he means. Information about the three options is widely available and it is included in pregnancy counselling training courses. I do not see what the confusion is. Just in our little *Yellow Pages* in Canberra-Queanbeyan we have pregnancy help, which takes up Dr McCaffrey's point, and pregnancy support. I was one of the founders of the pregnancy support service in the ACT, back in about 1973. The first training session—I am not actively involved with it now; I do other work—included information on all those three options. I think it goes back again to what Mrs Nancarrow was saying: you do not have to go to another place to get information about abortion. Methods of abortion, periods of pregnancy in which it is done—you can get all that information from the one service. I cannot see why you cannot.

Senator ADAMS—With some services you cannot: that is the point.

Mrs Woolf—Certainly the one that I am a founder of and involved in can. I would need evidence of it, because women will definitely ask you about abortion and you are obliged to give them information about it.

Senator ADAMS—That was my next question, actually.

Mrs Woolf—And you talk about them possibly having to go somewhere else. Well, they will only need to go somewhere else if they decide on a termination. Things like material support; baby clothes; people going to the birth with, say, a single young girl who wants that help; accommodation, like Karinya House—

Senator ADAMS—No, it is not that—

Mrs Woolf—What can't they get from a pregnancy help service?

Senator ADAMS—Some counselling services, within the objects and aims of their organisation, are not allowed to give any information regarding a termination.

Mrs Woolf—I am sorry, but I cannot answer for them.

Senator ADAMS—I am just saying that that is what is happening in some of those services.

Mrs Woolf—Which?

Senator ADAMS—Pregnancy Help Australia, for a start. They do not, within their guidelines and objects. The evidence that we were given in Canberra is that they are not allowed to discuss terminations.

Mrs Woolf—But who in Canberra told you that? You said the AMA. I doubt that Dr Haikerwal—

Senator ADAMS—No, I was talking about them before.

Senator NETTLE—Pregnancy Help Australia. They read it out.

Senator ADAMS—Yes. They cannot do it. When asked at the inquiry, they said that they cannot discuss it under their aims and objectives.

Mrs Woolf—I will pass the question to Mrs Nancarrow, who is much more actively involved in counselling at the moment.

Mrs Nancarrow—Would you mind repeating the issue so that I have it perfectly clear?

Senator ADAMS—The issue is this: if a woman looks up the phone book and comes to a counselling service and, in trying to go through the options, asks about termination, some of the organisations providing pregnancy counselling are not, under the aims and objectives under their constitutions, allowed to discuss it or to help that person, if she so wishes, to go anywhere else; they have to say, 'No, we cannot discuss it.' That is what I am getting at. There is nothing in the advertisement to say that a person that goes to that counselling service is going to be able to have the three options discussed. That is what it is about. Getting back to Dr Haikerwal, he was saying that, if that were clearer, people would not go there if they were looking at the option of a termination. That is, in a nutshell, what it is about.

Mrs Nancarrow—I agree. Certainly that is correct, but once again we seem to be mixing up the notion of talking about and getting information and referral, and this is what is definitely—even in the document—two different things.

Senator ADAMS—But in the question asked about a woman who comes in and wants to talk about termination, they said they were not allowed to discuss it with her and they were also not allowed to say, 'Go here or go there or talk to that person about it.' They would leave her sitting there saying, 'Where do I go now?' It is back to the phone book and go on.

Mrs Nancarrow—I do not have it with me, I am afraid, but I have the documentation and the booklet given out by those people and I did not read that in it. If I can just go a little bit opposite to what you are saying, a lot of the complaints—from these submissions through anecdotal evidence only—are that people are given too much information about abortion, the abortion procedures, what it is like, what they do, how they do it and that it is awful and distressing. What is too much information and what is not enough information?

Senator ADAMS—But have those people who are giving that information advertised that they do discuss termination? This is what I am getting at.

Mrs Nancarrow—That has not been an issue up to now.

Senator ADAMS—The complaints that we have had—and as this organisation said—is that, if someone came and asked a question about termination, they just said, 'It is not within our guidelines or our objectives. With our constitution, we cannot discuss that, so we can't give you any advice. Go and find someone else.'

Mrs Nancarrow—I find that difficult—

Senator ADAMS—That is what is happening.

Dr McCaffrey—Can I just quickly address that? I am involved in training pregnancy help counsellors, and Right to Life does assist in the funding of abortion alternatives and pregnancy support lines et cetera. It has never been my experience that counsellors are not able to discuss abortion and termination of pregnancies with women over the phone or through direct counselling.

Senator ADAMS—I was surprised when you said that because—

Dr McCaffrey—It is my honest experience that there is no effort to limit the amount of information which can be given to women. There is only one key point which often their constitution precludes them from and that is the direct referral for termination of pregnancy. That is the problem. Their constitution prevents them from directly referring for a termination, but everything up to that direct referral is both permissible and encouraged.

Senator ADAMS—Unfortunately, that was not the evidence we were given.

CHAIR—That is not my recollection of what the evidence was, but Senator Nettle is having a look at the *Hansard* now. We might just refresh our memory about that and see what the story was.

Senator ADAMS—That is good. We will see what it was.

Dr McCaffrey—Apropos of that, it would be my impression that when it says in Senator Stott Despoja's bill: 'In my bill, "non-directive pregnancy counselling service" refers to a service that offers counselling, information services, referrals and support on all three pregnancy options (raising the child, adoption, and termination)', if you include support for raising a child—which is part of this bill—there is no way preterm clinics can provide that service. They do not provide that service and I do not believe they ever will. According to this bill, preterm clinics will never be able to admit that they provide a comprehensive range of pregnancy counselling services because this bill will preclude them from doing that.

Mrs Woolf—We have two ads in the ACT *Yellow Pages*. Karinya House obviously is a supportive organisation. We do not refer to abortion—I cannot see why it should—pregnancy help or pregnancy support. In the termination ads I do not see anything like, 'We do not provide accommodation; we do not provide support services throughout a pregnancy; we do not attend births, exercise classes; we do not provide you with follow-up for some months after a baby is born.' I wonder why people do not have to say what they do not provide as pregnancy support services. As Dr McCaffrey says, if a woman truly has an option of seeing a pregnancy through she will need a lot of support—possibly baby clothes and accommodation, if her partner is not supporting her or her parents are not supportive. All these services can be provided by these organisations. I know because I set one up. If we are going to give all this help and support for the three options, as Dr McCaffrey says, we will possibly have to include in everybody's ads exactly what they do and what they do not do. What is prejudicial about that?

Senator ADAMS—That is not the point.

Mrs Woolf—It is my point.

Senator ADAMS—That is not what I was talking about.

CHAIR—We will come back to that issue, once we have checked *Hansard*.

Senator POLLEY—In relation to the term 'referral', I made the comment yesterday at the hearings in Melbourne that you said that in Tasmania you need a referral from two medical practitioners to have a termination. My understanding is that this legislation, in insisting that pregnancy counselling services make such a referral, would not be effective in Tasmania. We have also heard a lot of evidence, whether you are pro-choice or pro-abortion, on counselling from both ends of the spectrum in relation to services that are provided. One response to an

earlier question from Senator Adams was, 'How much information is too much information?' The evidence given in Canberra and also yesterday in Melbourne that I recall was that those Christian based organisations do give three options. But their response was: 'If you wanted more information about abortions then you should be referred to your general practitioner.' I wonder whether you had any comments to add to that. Certainly, in the light of Mrs Woolf's comments in relation to balance, this legislation goes no way in addressing the limited counselling that is provided at termination clinics.

Mrs Woolf—It is true that no referral is necessary in the states of Queensland, New South Wales and Victoria, which still share very common Criminal Code provisions from 1900. I believe in Western Australia, certainly South Australia, Tasmania and the Northern Territory there are statutory grounds for abortion rather than case law, as you find in the first group of states. If women require referral by medical practitioners then that is a fact. All through this bill, the word 'refer'—and we have said this at length in our submission—is given that medical overtone which is entirely inappropriate. There is a suggestion that if someone is not referred they cannot access a service, yet the Bessie Smyth Foundation submission and the ads from termination counselling services all assure us that you do not need a referral, and in those states you certainly do not. So it is ridiculous to require anyone to give you one. But, in the states that have statutory provisions for access to abortion, of course you would have to follow those and where they require referral to medical practitioners the whole issue of referral collapses on itself.

Mrs Nancarrow—I am unaware that any of these counselling services would refer to a general practitioner per se. I think you would find—and I am sorry to speak anecdotally, which I criticised other people for—that if they were able to be referred, if it was not one of our types of counselling services, they would be referred to an abortion provider. I think you will find that if a person goes to their GP—and you may correct me about this—the GP generally does not do the abortion. They then refer to a specialist or to a specialist clinic. The submission of Pregnancy Help Australia made a point—and I and also my members actually concur with that—that abortion services in Australia are widely advertised and readily accessible by the majority of the population. Later, their submission states:

> To suggest that women who access a pregnancy counselling service, regardless of its referral policy, are unable to locate an abortion service without such a referral is both judgmental and patronising.

I have a tendency to agree with that. Here is a list of the 51 abortion providers. I have my *Yellow Pages* on the internet and there is not as much there, but they do say, 'Press here for more information' or 'Go to this website for more information.' You find 51 of those when you go to the internet. Most people do have access to the internet these days. In the businesses section under 'Pregnancy counselling and related services', there are actually 55 entries. But only about three or four of those are not abortion providers.

So I think to say that people need to get a referral from a counselling service is not quite true. People have access to many ways in all sorts of advertising in the pamphlets and everything that is mentioned there. They have access to that. I do not think we should put women down. I think women are very capable of finding the information that they need. If I was ringing up a counselling service and they said to me, 'We don't refer to adoptions,' or if I read it in the Sensis section, it is not the one I would be ringing.

As a compassionate woman who has worked with some of these women and know how distressed they have been, I really feel that we should not put them down—recognising, of course, that this is a time of extreme anxiety and distress for these people. That is why the Catholic Women's League Australia thinks that the advertising should be transparent. But we do not think that referral is part of the transparency.

Senator STOTT DESPOJA—Thank you for your time in providing submissions and presenting today. I am actually very impressed with the process where people are happy to put forward their views, diverse as they may be and contrary in some cases. In some cases today there have been constructive ideas as to how we could improve the bill. I want to start with your last point. I want to focus on some of the areas where we agree. Obviously there are areas where you have concerns with the legislation. I think that, wittingly or not, you have just summed it up for me. I really think this is a key point. When you were talking about an advertisement just then, you mentioned seeing an advertisement that said—and please make sure I quote you correctly; I was scribbling madly—'We do not refer for abortion.' I am not sure whether you said abortion or adoption.

But the point you were making was that, if an ad said this, it was not the one you would be ringing. I guess that is the point of this whole debate. When women or their families or anyone in this situation see an advertisement where the information contained therein is clear and up front, they can make a decision that is as informed as possible. If a woman sees an ad that says, 'We do refer for abortions', or 'We are an abortion clinic', to use your terminology in terms of those 51 ads, she can say, 'That is not what I want to ring—I want to ring a different service.' Is there anything wrong with women knowing whether or not an organisation does or does not refer?

Mrs Nancarrow—No, there is nothing wrong with them knowing that at all. That is a whole part of the transparency issue. However, the issue is not necessarily the transparency, if I can go back a couple of steps, but the definitions of 'pregnancy counselling' and 'non-directive pregnancy counselling'.

Senator STOTT DESPOJA—You have put very clearly on record your concerns and those of others, including your definitional issues. I am happy to take those on board. Regardless of the definitional issues, do you understand that this proposed bill in no way closes down or stops the operation of any pregnancy counselling service in Australia, regardless of their position?

Dr Vout—Yes, I do understand that. But, as I have already said, it does exclude certain agencies from being able to advertise in the 24-hour health and help directory. I think that is a very important point.

Senator STOTT DESPOJA—Absolutely. You and I will get to section 7 because I think your points on that were constructive and correct. I just want to be clear on one area. I am not sure that everyone is clear on it, and I think your submission is clear on it. Do you want to talk about section 7? You are right in your interpretation of the intent and effect of the bill—just to get the terminological issues out there. It is something that has been brought up by other people. One of the issues has been that there is, for lack of a better term, no alternative service that qualifies—obviously because they do not receive Commonwealth funding—to be in that

same listing. How would you feel—and this is something that we have all been discussing, because that is the process of discussion and negotiation at a Senate committee—if that section were changed so that, once again, people were up front and transparent in what they provide and so that people were not excluded, provided they were up front about the services they provide? This covers the point that Mr McAuley made. I take on board that point. The interpretation was spot on and there is room for movement in that, but I still think the principle of transparency should apply.

Dr Vout—I have no doubt. May I add to that before I reply properly to your question?

Senator STOTT DESPOJA—Go for it.

Dr Vout—As far as I know, two agencies are listed in those pages—

Senator STOTT DESPOJA—Yes.

Dr Vout—One is Pregnancy Counselling Australia, who receive no government funding. I would like to put that on record. I would have no problem with that. One thing I am concerned about is that, when that issue has been raised, the negative inference is often that we ought not receive funding—that there is some sort of imbalance in the funding. That is why I raised the first point. Perhaps we should have a termination service. It could certainly be an emergency. We have services saying that they will provide terminations within two or three hours of someone walking in the door.

Senator STOTT DESPOJA—Again, the extent and the terminology is all up for debate. Thank you for the principle and for making the point about Pregnancy Counselling Australia who, as you would know, gave a submission and appeared yesterday with Right to Life. I thought they were refreshingly up front about their philosophy and the fact that they, as a pro-life organisation, were quite happy to advertise that fact, and that is what it is about. Maybe there is an argument in the debate. You both brought up the issue of making sure that this is as balanced as it can be so that people can indicate whether they do or they do not provide certain services. Again on terminology, Mrs Nancarrow, you brought up the issue of the definition of 'person' in section 3. What is your concern?

Mrs Nancarrow—My concern is that I do not understand it.

Senator STOTT DESPOJA—Okay. I thought you were suggesting that there may be some constitutional issue involving the states.

Mrs Nancarrow—I would never discuss constitutional issues in such a forum. My point was that I and a number of other people who read it may not be totally clear on that particular thing. Remember that I talked about nomenclature earlier.

Senator STOTT DESPOJA—Yes.

Mrs Nancarrow—I thought that if a number of people were not clear on it then maybe that is what needs to be looked at. That is quite simple.

Senator STOTT DESPOJA—I am happy to hopefully assure people that this is the standard definition of what constitutes 'a person' in relation to Commonwealth law and that it in fact emulates the Trade Practices Act definition, which I am sure Mr McAuley will look at very quickly. I am happy to refer that to further discussion. I was not aware of any issues with

that, so when you brought that up I thought you had me on a real doozey that I was not expecting. There should not be an issue.

Mrs Nancarrow—It is an issue for the common person.

Senator STOTT DESPOJA—As is the fact that we do not have plain English law in Australia. But we are working on it. Mr McAuley, could I just say that I am certainly taking on board your concerns about section 7. I said this yesterday: consensus may break out in this committee on this issue. I am not holding my breath, as the chair said, but there is room for movement in applying the principle of transparency. People, including Mr McAuley, talked about the issue of counselling standards. Everyone has done that. The clear aim of this bill is to emulate the provisions of the Trade Practices Act in relation to this sector. That is not because I or anyone else on this committee do not have a view on counselling standards or otherwise. The next job of the committee may be to look at that in conjunction with the work of your good selves. I just make very clear that this bill does not deal with those issues; it deals specifically with transparency. Mrs Woolf, could I tackle the issue of Commonwealth funding very specifically. In your interpretation of the bill, just to make it very clear, you might have been referring to sections 8 and 9. What was your concern about the funding?

Mrs Woolf—Did I express a concern about the funding? I would actually like to comment on section 7.

Senator STOTT DESPOJA—No, that is okay. My question relates to the funding issue. You indicated that you were concerned that Commonwealth funding and organisations—

Mrs Woolf—In the submission, certainly.

Senator STOTT DESPOJA—In the submission. I will not tackle whatever you may think the agenda is behind the bill and your comments about me personally. I am not going to go over—I am not even going to quote—comments about denigrating services. I just want to know from the perspective of the legislation specifically what made you think that there would be ineligibility for Commonwealth funding in relation to pregnancy counselling services. All that is asked for in the bill is that people are up front and do not mislead. That would be the only reason people would not be entitled to funding. I want you to go back to your verbal statements about where people are getting their funding.

Mrs Woolf—The introductory sentence to section 8 says:

Grant of Commonwealth financial assistance not payable where a pregnancy counselling service engages in misleading or deceptive conduct

You cannot read any section of the bill in isolation. If you read the bill as a whole, you see that obviously those presumed to be guilty of misleading or deceptive conduct are those who do not fulfil—I am sorry to keep boring people with it—the provisions of section 5, where one has to say specifically 'if you do not refer for abortion'. If that is not to be the exhaustive definition of misleading or deceptive conduct, that is good.

Senator STOTT DESPOJA—That is not the definition.

Mrs Woolf—Could I comment on section 7?

Senator STOTT DESPOJA—It is okay. I have had my questions on section 7. We need to tackle this question on funding and misleading advertising.

Mrs Woolf—Perhaps you could tell us what it means.

Senator STOTT DESPOJA—Deceptive conduct or misleading advertising as defined by this bill does not mean you have to conform to being non-directive. The definition of non-directive is in relation to referral for terminations, and I acknowledge the differing views. If you as a pregnancy counselling organisation would like to provide a service that deals with one, two or three options, including support or referrals—you do not necessarily have to refer for abortions; in fact, you do not even have to refer to terminations—you are in no way guilty of misleading or deceptive conduct.

Mrs Woolf—Then what is the purpose of clause 8 of the bill?

Senator STOTT DESPOJA—You said you understood the bill well.

Mrs Woolf—I do, and I—

Senator STOTT DESPOJA—Clause 8 deals with—

CHAIR—Senator, let us just ask the question. What is the question that you are asking?

Mrs Woolf—Ask a question of me.

Senator STOTT DESPOJA—You heard my question. What was the basis on which you made a statement that people would be denied funding? You acknowledged that that would happen if people were guilty under section 5—that is, of misleading and deceptive conduct. But you believed that the definition of misleading and deceptive conduct was that you did not refer for abortions. That is not the definition. I want to assure you that no organisation would be guilty—

Mrs Woolf—Could we be provided with the definition of it then?

Senator STOTT DESPOJA—An organisation is guilty of misleading and deceptive conduct if they mislead or deceive in their advertisements or their published material. That means people just have to be up front and transparent in what services they provide but they are in no way obliged to refer for terminations.

Mrs Woolf—Then what change does clause 8 mean to effect in relation to Commonwealth funding, if that is all it means? Presumably the Commonwealth would not at present fund any organisation which was in breach of its policies as expressed in the Trade Practices Act. I am wondering why this particular clause appears here in this context. It is not clear to me what the function of clause 8 is—that is true—after listening to your explanation of it.

Senator STOTT DESPOJA—I may refer you, indeed your own lawyers, to the higher education act and all other acts that refer to the provision of Commonwealth funding if someone fails to comply with federal legislation. I am just making it very clear that no-one will be denied Commonwealth funding unless people are guilty of misleading and deceptive conduct.

Senator BARNETT—I will take a point of order, please. Again Senator Stott Despoja is expressing her views, which I respect, on the intent of the legislation. What I am interested in is the witnesses' views on and interpretation of the various clauses of the legislation. They are questions which I seek to put to the witnesses. I respect Senator Stott Despoja's objectives—her intent—but I am interested in the effect of the legislation.

Senator STOTT DESPOJA—I just want to reassure the witnesses.

CHAIR—I think we can resolve this by asking questions rather than having a dialogue.

Senator STOTT DESPOJA—I have some final questions for the remaining witnesses. I should not have engaged with Mrs Woolf, and I apologise.

Mrs Woolf—In trying to define the purpose of any part of a bill or an act, its inclusion here is a puzzle to me and I interpret it in a particular way. If one goes to extraneous materials, which one can do under the circumstances, the senator's own second reading contribution makes general statements about making pregnancy counselling services subject to the laws regarding misleading advertising but two paragraphs later talks only about the failings of pro-life organisations that do not refer for terminations. Putting those things together in a context, I did have a fear that this is how it would be interpreted. If I am wrong, I am wrong.

Senator STOTT DESPOJA—I have spoken to those witnesses who provided their concerns and their constructive solutions. Mrs Nancarrow, in relation to the Catholic Women's League, the definition of 'refer' and 'referral' is a broad area of debate and it is one we have had with a number of organisations and groups. What is your view, perhaps in relation to your organisation, if someone rings up and says: 'I'd like more information on adoption services. Where can you advise me to go? Where can you refer me?' People have referred to so-called medical overtones, and I understand that 'referral' or 'refer' often has that, but if it comes to—

Mrs Nancarrow—Are you asking me what I would do if somebody rang me? I do not think that is an appropriate question.

Senator STOTT DESPOJA—No, I am not talking about you; I am talking about the Catholic Women's League or organisations with which you are associated. If a woman rings up, do you refer them to other organisations for advice and support on the issue of adoption? If you do not, that is fine; I was just curious about the issue of adoption.

Mrs Nancarrow—I am not quite sure who 'you' is.

Senator STOTT DESPOJA—The Catholic Women's League. It is not a trick question.

Mrs Nancarrow—The organisation per se does the sorts of things I am doing today. Individual members of the organisation work for a lot of the Catholic organisations and other Christian organisations—lots of organisations where counselling in the broader sense happens. Those women are very compassionate and caring. That is stated in all of our documentation. Individual women who work with those agencies as paid employees or as volunteers would work solely under the guidelines of those particular organisations, so we would have to take a step back and say which organisations—

Senator STOTT DESPOJA—Fair point.

Mrs Nancarrow—The Catholic Women's League in particular, as you would imagine, are very supportive of women who wish to continue their pregnancies under whatever circumstances. A lot of our effort and work goes into the more positive aspects of this. We support the person. I think the sorts of things that can happen have already been mentioned. God bless us: we have a number of older ladies who do the practical things such as knitting booties and whatever. In terms of what Catholic Women's League do, we see ourselves more as being supportive for those women who have made that choice. We also support them in

their decision making, remembering that that ultimate decision is made by that person, or the 'counselee' as they are called in the literature. You will certainly find that Catholic Women's League members are very good listeners. Being a good listener is the first prerequisite for being a support person.

Senator STOTT DESPOJA—You have made clear those relationships? For example, what would be your relationship with Pregnancy Help Australia? Is that a closely linked body?

Mrs Nancarrow—The relationship would be with individual membership groups, individual states and individual dioceses and parishes—it can be at any level. For example, the people here in Sydney support Project Rachel, which you may have heard about. It is a support service for women who have had abortions and who need some care and attention afterwards. These support persons would do that on an individual basis. Some of our branches may provide financial support to some of them. There are a variety of needs out there, and these people work in a variety of ways and have a variety of activities.

Senator STOTT DESPOJA—That is great. I have one last point. Your submission says:

• the apparent intent to ensure that all counselling services for pregnant women include referral for terminations',

Mrs Nancarrow—That is as I read part 1, 'Preliminary', 'Definitions'.

Senator STOTT DESPOJA—I can assure you that it is neither the intent nor the effect of the bill. I want to make that very clear. We may have different definitions of what is nondirective. The diverse range of organisations have their place. There is no intent or effect in this bill to insist that organisations such as yours and ones with which you may have a relationship or be affiliated to provide referrals for terminations. I am happy to talk about that with your organisations more directly to clear up any confusion, if there remains any—but I think I have probably taken up my time.

Senator BARNETT—Thank you very much for your informative advice and submissions. I have found them very helpful. I want to say again that I and others around the table in no way doubt the motives of the proponent of the bill. I think there is general agreement on the objects of the bill—that we are against misleading and deceptive conduct and that we support transparency in advertising. That is the sense and the message that I have heard from the witnesses and from the senators around the table.

What I and the committee are very interested in is your view on the net effect of this bill if it is passed into law. Bearing in mind that the bill has gone through its first reading and is now in its second reading stage in the Senate, I am focusing on what the net effect of this bill will be if it is passed. I would like to seek the views of Mr McAuley, who is a lawyer, Ms Woolf or anybody else at the table on the net effect of section 3, which is the definition section; its construct with section 7, which concerns the *Yellow Pages*; and section 10, which denies funding unless two conditions occur.

Before I go to that question, I want to ask Mrs Nancarrow and Mrs Woolf about the appropriateness of same-day abortions. Mrs Nancarrow, you have recommended regulation of decision counselling. I would like you to express your views as to why that is important and

your concerns about same-day abortions. Yesterday, Dr Allanson from the Fertility Control Clinic advised us that 50 per cent of their abortions are same-day.

Mrs Nancarrow—I find that extremely distressing. All of my members would find that extremely distressing. I talked earlier about recognising the physical and psychological state of people when they find themselves in circumstances that they did not expect to find themselves in. I think there should be time for consideration; that is so important. I know that many families and parents, when they first discover that there is a pregnancy, think: 'Oh my God! Not now.' They are quite distressed about it and think: 'We need another car. We need another room.' All of those things go through their minds and they become extremely anxious. But, if you speak to them even a couple of weeks later, they are over that. It is wrong for people to make the sorts of decisions they are making about their future and the future of their unborn child in a matter of hours. I find that quite distressing.

Senator BARNETT—So you believe there is a case for the regulation of counselling about decision making?

Mrs Nancarrow—For the required counselling, yes. That is absolutely necessary.

Mrs Woolf—In our submission, we pointed particularly to an act that was in effect in the ACT from 1998 to 2002. It was called the Health Regulation (Maternal Health Information) Act. The information to be provided there was specified in the legislation and included the medical risks of termination of pregnancy and of carrying a pregnancy to term, the risks associated with any particular type of abortion procedure at particular stages, and the probable gestational age of the foetus, which can be determined easily now. All of that was to be included in a pamphlet, and I can provide to the committee a colour copy of that. It was drawn up not by pro-lifers but by a ministerial committee consisting of obstetricians, a neonatal medicine expert and specialists in psychiatry—seeing that it is claimed that most abortions meet the legal requirements in the Commonwealth and states, this was because of the need to deal with anxiety and mental health conditions—a registered nurse and a ministerial representative. After a couple of drafts and a lot of discussion in the ACT Legislative Assembly at the time—around 1998—that pamphlet was produced. I attached one to the submission of the association. It has all of that information. It has been withdrawn; it has been cancelled.

Senator BARNETT—Has that brochure been tabled?

Mrs Woolf—Yes.

Senator BARNETT—I will go to section 3, the definitions section. When you use that with section 7 regarding the *Yellow Pages*, what is its net effect? If you use the definition in section 3 of 'non-directive pregnancy counselling' and look at the three options—raising the child, adoption and termination of pregnancy—and the requirement to provide referrals to termination of pregnancy services where requested, it is very clear that the organisations which you represent will not be able to advertise in the *Yellow Pages*. Is that your understanding?

Mrs Woolf—Yes. Absolutely.

Senator BARNETT—Mr McAuley, is that your understanding? Do you want to add anything further in terms of the construction of section 3 and section 7?

Mr McAuley—I broadly agree with that.

Mrs Woolf—I particularly point to submission 34, which is that of the general counsel and senior legal advisor for Sensis. Sensis, as you know, is the advertising subsidiary of Telstra. They express a great concern there about how they as carriers are going to decide for every ad that is placed with them in this area whether the counselling is sufficient or whether the ad is misleading or whatever. They are already asking to be relieved of this burden and do not think the bill is workable.

Senator BARNETT—We have had the advice from Sensis. That is noted. I draw your attention in the definition of 'non-directed pregnancy counselling' to the word 'support'. Do you think it is appropriate to include the word 'support' in that definition? It says that the services must provide support for all three pregnancy options. What is your understanding of the word 'support'? How will that impact upon your organisations?

Mrs Woolf—I am not certain what it means. It is a term of general meaning. The point has already been made by one of the witnesses that if it means ongoing help in a material or emotional sense, then a number of agencies that are simply termination services or one step from them would have to say that they do not provide support in relation to raising the child, even in its early stages, so it is—

Senator BARNETT—I want to come to that in a minute. You have made a good point. But from your organisation's perspective, you would be required to support termination. You must provide support for all three pregnancy options, which include the termination of pregnancy. You would be required to support that third option. That is the way that I would read it, but is that they way you would read it?

Mrs Woolf—Yes.

Senator BARNETT—Do you have any other feedback or comment?

Mr McAuley—I agree with that.

Senator BARNETT—I will go to section 10 and the construct of that with section 3. Section 10 says:

A pregnancy counselling service is ineligible to receive a payment or a grant of financial assistance from the Commonwealth:

(a) unless it first discloses in any contract ... with the Commonwealth or with a State whether it is:

(i) a pregnancy counselling service which does not provide referrals for terminations of pregnancy; or

(ii) a non-directive pregnancy counselling service ...

Let us go through the second one first. You do not agree with the definition. If you are not a non-directive pregnancy counselling service, you will not receive that funding. Is that the way you read section 10?

Mrs Woolf—Yes. I was surprised to hear that somehow section 8 is not threatening to funding, but section 8 is irrelevant when you read section 10.

Senator BARNETT—I want to come to section 8. Section 10: your funding will not apply if you do not provide non-directive pregnancy counselling.

Mrs Woolf—As defined in section 5, which is—

Senator BARNETT—As defined in section 3.

Mrs Woolf—Three? And in section 5.

Senator BARNETT—Section 3 is the definition section.

Mrs Woolf—Section 3, yes.

Senator BARNETT—Mr McAuley, do you want to share a view on that from your legal perspective?

Mr McAuley—I am not quite sure that it was as strong as that, I must say. I did not quite read it that way. Section 10 reads:

A pregnancy counselling service is ineligible to receive a payment or a grant of financial assistance from the Commonwealth:

(a) unless it first discloses ...

I think the requirement is—

Senator BARNETT—Disclosure?

Mr McAuley—disclosure. It does not actually knock out receiving assistance.

Senator BARNETT—Mr McAuley, it does two things. You must disclose that you are one of two things, one of which is a non-directive pregnancy counselling service. If you disclose it, assumedly you are exactly that—that is, a non-directive pregnancy counselling service. I am taking the second point first.

Mr McAuley—Yes, I understand that.

Senator BARNETT—Is that noted or understood?

Mr McAuley—I think so.

Senator BARNETT—Or you are:

(i) a pregnancy counselling service which does not provide referrals for terminations of pregnancy ...

So it must disclose that in the contract.

Mr McAuley—That is right.

Senator BARNETT—Let us move to section 8 and the construct of that with sections 5 and 6, which go to the question earlier. Section 8 says basically that you cannot engage in misleading or deceptive conduct and that there is no funding where the state receives financial assistance if there is misleading or deceptive conduct. Then you go to the definition of misleading and deceptive conduct under this bill—that is, not under the Trade Practices Act but under this bill. That leads you to sections 5 and 6. Section 6(1) says:

A person that advertises or notifies a pregnancy counselling service that does not provide referrals for terminations of pregnancy must include in the advertising or notification material a statement that "This service does not provide referrals for terminations of pregnancy" or a like statement.

Yesterday we had a view from Dr Nicholas Tonti-Filippini. He said the thrust of this bill was that the restrictions were one-directional. Mrs Woolf, this is the point you made earlier.

Mrs Woolf—Yes.

Senator BARNETT—You asked, 'Why would the restrictions going to, "This service does not provide referrals for terminations of pregnancy, abortions or what have you" apply only to your organisations but not to other service providers?' There is one law for one and one law for the other. I think you made the point such that, 'Why shouldn't there be restrictions on the others to say, "They don't provide referrals for adoption; they don't provide referrals for bringing up a child; they don't provide whatever else"?'

Mrs Woolf—Ongoing support.

Senator BARNETT—Yes, ongoing support. What is your response?

Mrs Woolf—Ongoing support is very critical. Places like Karinya House provide accommodation. We have accommodation volunteer lists in Pregnancy Help and so forth in our own organisations in Canberra. If you do not provide that, you should say so. I would much prefer to scrap the whole thing and simply have people state clearly and without any deception what they do provide. There seems to be no particular problem with it. I was surprised to learn that those organisations who seem to have a problem with pregnancy health services have been lobbying Sensis quite heavily.

I refer the committee to submission 39, from the Association for the Legal Right to Abortion (WA) Inc, which has been lobbying Sensis and the *Yellow Pages* to change the materials. Also, Dr Jo Wainer says they have this campaign, so clearly there has been a lot of communication from people like Dr Wainer and ALRA asking Sensis to change its materials. Also, the submission from the Bessie Smyth Foundation says:

Lobbying of Sensis has been less than successful.

They say they have persuaded Sensis to add descriptors—this is to other people's ads. I have never had the experience where one group could virtually force the carrier somehow to add descriptors. This is all without legislative force. They have added things like 'does not refer for abortions', 'alternatives for abortions' and 'pregnancy options and alternatives'. This is all in the Bessie Smyth submission, No. 84. It is our opinion that, while these descriptors are an improvement—and I do not know what one would not understand by 'pregnancy options and alternatives' and so forth—these go nowhere near making it clearer to members of the public, particularly women, what services will be provided by those organisations. So it is not even-Steven.

Senator BARNETT—Your point is noted. Mr McAuley?

Mr McAuley—I have been most impressed by some of the comments of Senator Stott Despoja. Before I came here today I thought we were completely at loggerheads. I have also been equally most impressed by the comments of Senator Barnett. It seems to me that both show an understanding of this proposed legislation. From what I can see, there is a perception amongst the counselling organisations that this bill is intended to put them out of business. That may not be the intention, but certainly that is the perception out in the community. There is also the perception that it is one-sided. Without commenting on any particular provision, I

make the facetious suggestion that the committee lock Senator Barnett and Senator Stott Despoja in a room and not let them out until they work out a redraft of this legislation!

Senator STOTT DESPOJA—Point of order!

CHAIR—A very sensible suggestion, Mr McAuley.

Senator BARNETT—How big is the room? I wanted to ask the witnesses if it is possible to balance the bill to try and ensure that the same thrust of where you are coming from is applied to all service providers. How could that happen? In answering that, can you flesh out the types of descriptors that would perhaps apply to the abortion providers and say: 'We do not provide referrals or support for abortion.' Can you describe how that could be done to balance up the bill?

Mr McAuley—Can I address that very quickly? Section 6 provides:

...a pregnancy counselling service that does not provide referrals for terminations of pregnancy must include in the advertising or notification material a statement that 'This service does not provide referrals for terminations of pregnancy' or a like statement.

It seems to me that that provision needs to be thought about. As I understand it, most of the counselling which is done by counselling organisations has absolutely nothing to do with abortion but rather has to do with all the sorts of practical difficulties that pregnant women have. Quite frankly, I think one simple way of solving the problem is that, in the *Yellow Pages*, you could have 'Pregnancy termination services', so you know you are getting a termination, and 'Pregnancy support services', so you know you are getting support. It is clear—one or the other. Perhaps that is a bit too simple-minded, but certainly that is the sort of way we should be thinking.

Senator BARNETT—Are there any other responses to that question?

Mrs Woolf—Some telephone listings have already done this. I was shown the other day that the *Yellow Pages* has termination services. I do not know what they have to do with counselling, really, but they say they are termination services and they have alternatives to abortion, and organisations are listed under that. It seems clear to me. As Mrs Nancarrow said, it is pretty patronising to think women are so unintelligent that they cannot find their way around. I am not sure how they get a plumber out of the *Yellow Pages*!

Senator BARNETT—Dr McCaffery, you mentioned earlier the health risks to women. Could you take on notice to send to the committee any advice, resources and evidence you have in response to Senator Adams's question about the link between abortion and any other adverse health risks, whether cancer or other matters? Please forward any evidence that you think would be helpful to answer that question.

Dr McCaffery—It will be a pleasure. Senator Adams, I assume you only want a possible link between breast cancer and abortion. Is that a fair comment?

Senator ADAMS—I am just asking because you made comments in your submission on all those issues. It was the breast cancer one, mainly because it has been raised so much, that I really wanted some more evidence on. I have quite a lot, but it is not the same as what you and so the other witnesses have, and that is the thing. Mine is more recent than a lot of the others.

Senator BARNETT—Dr McCaffery, there was evidence in regard to other adverse health consequences, including the risk of death, yesterday, so I am interested in any evidence you have about the link between abortion and adverse health consequences and/or death.

Mrs Nancarrow—That is an adverse health consequence!

Senator BARNETT—Not just for the woman.

Mrs Woolf—I do not know whether it has been raised—perhaps this has been raised in Melbourne; I was at the Canberra hearings—but doesn't the Commonwealth have control over print media? I thought the Commonwealth had control over telecommunications, and publication in section 3 talks about 'by means of radio, television, internet, telephone or print media in whatever form'. There is this whole thing about advertisements in hard copy and so forth. Does the Commonwealth have power to control print media throughout the Commonwealth?

CHAIR—This issue was raised yesterday in hearings by Mr Francis.

Senator BARNETT—I think it is fair to say I am not convinced as yet of the constitutionality of the bill, but this is a matter that we will look into as a committee. I think there are arguments for and against, and we are seeking further advice on that.

Mrs Woolf—Further, when the parallels were made with the Trades Practices Act to bring in those goods and services not charged for, I also understood the Trades Practices Act reaches to those matters of the Commonwealth—in fact, a very small amount of territory. Doesn't that require fair trading acts in the states? To make all these things work, you have a uniform legislative scheme in relation to the Commonwealth Trades Practices Act, which is being put into effect in a vast amount of Australia by the fair trading acts of the states. Is it contemplated that this bill would be complemented by uniform legislation throughout the states to cover exactly what the senator wishes to cover, but in the states? It just will not work otherwise. It is a much bigger project than it would appear, but you say this issue has been raised, and I would like the committee to take a lot of advice on it.

Senator NETTLE—I wanted to ask Dr McCaffery about the reference copy he mentioned in his submission. Is it possible to get it on notice? There are a couple of claims about the reasons abortions occur that it would be interesting to see some evidence for. If we could get that, it would be appreciated. Also in your submission, in points 26 and 27 you talk about counselling organisations where counselling is provided by volunteers. I just wondered which organisations you were referring to there—the ones that are run by volunteers and funded by donations. I wondered if there were specific pregnancy counselling organisations you were referring to.

Dr McCaffrey—An example is that Right to Life provides funding for abortion alternatives and a pregnancy support line. That money is provided by donations.

Senator NETTLE—What was the second one?

Dr McCaffrey—A pregnancy support line. Abortion alternatives is 92991057; pregnancy support line is 94131341. Right to Life provides both of those pregnancy counselling agencies with funding, which is provided by donations.

Senator NETTLE—Thank you. And they are run by volunteers?

Dr McCaffery—They are.

Senator NETTLE—You were talking before about breast cancer. Is this publication from Right to Life New South Wales?

Dr McCaffery—It is.

Senator NETTLE—On page 49 of this publication, it says:

... abortion may have the following consequences:

... ...

- Increased risk of breast cancer particularly in women who have not previously gone full term in a pregnancy and given birth.

It sounded to me like that did not have the same level of qualification that you were giving in your earlier answers in relation to any link between breast cancer and abortion. I just thought I would draw that to your attention. Taking your answer as accurate before, it is not reflected in either the publication or what I understand is the information that is provided on your website. I just wanted to draw that to your attention.

Dr McCaffery—I appreciate that.

Senator NETTLE—Mrs Woolf, my understanding is that on your website there is an article by Heather Sertori stating that the Australian Federation of Pregnancy Support Services—now known as Pregnancy Help Australia—was started by your organisation. I wanted to check if that was the case.

Mrs Woolf—Is this the federation's website or the ACT Right to Life's website?

Senator NETTLE—By the ACT Right to Life.

Mrs Woolf—No, we simply started the one in the ACT, which was called Pregnancy Help. Some years further on, it was incorporated as an independent organisation, but no, we do not claim merit for starting the whole group of pregnancy support organisations.

Senator NETTLE—I just wanted to check that, because that is my understanding.

Mrs Woolf—It might be wrongly phrased; I will certainly check it.

Senator NETTLE—Yes, that was my understanding of the article. It is the ACT Right to Life website.

Mrs Woolf—No, we started Pregnancy Help in the ACT, which would be a member of that group. I will check it. I am not the web master, but if that is wrongly read, I will get it fixed.

Senator WEBBER—I want to return to the issue of advertising. I have spent two days reading various copies of the *Yellow Pages*, which is something I did not expect I would do in this job. I must apologise, Mrs Woolf, as I have not read the ACT *Yellow Pages*, but I will, because I am becoming attached to them now. That probably says more about me than anything else. Yesterday when Pregnancy Counselling Australia appeared before us, I had a previous copy of the Melbourne *Yellow Pages*. Their ad in that was headed 'Pregnant and upset' and then it had their contact details. They have since changed their ad to 'Pregnancy counselling, alternatives to abortion, post-abortion help'. At the time I said to them that I thought that was good disclosure. It was transparent, according to my interpretation of it. I

said, 'Congratulations, it is a step in the right direction.' It would seem that it probably complies with Senator Stott Despoja's bill.

Mrs Woolf—Don't they have to say they do not refer for abortion?

Senator WEBBER—It says, 'or like statement'—an alternative. This question will probably only be useful for people from New South Wales. When I read the pregnancy counselling and related services section in the *Yellow Pages*, and picking up on what was said before about pregnancy termination services, it is all very clear—they all refer to abortion—but there is this small section that just talks about counselling. 'Abortion alternatives' is listed. 'Abortion by women doctors' is listed. That is very clear. One ad has 'Pregnant, confused, need help?', a phone number and 'abortion alternatives'. If I read Pregnancy Help Australia, it says pre- and post-abortion counselling. What happens when I ring them? Do they discuss all the options with me, because that is counselling, and, if I decide to go down option 3, which is termination, as professional counsellors, do they support me in that decision?

Mrs Woolf—Again, I am not sure—

Senator WEBBER—As I say, Mrs Woolf, it is probably more appropriate for people from New South Wales, because it is the Sydney phone book.

Mrs Nancarrow—I cannot really answer about the Sydney phone book. I come from Port Stephens. In our local phone book—

Senator WEBBER—Sorry. I will restrict it even further to those of you from Sydney. I am from Perth, so I struggle with this.

Mrs Woolf—I see nothing wrong with the ad. That is all have to say.

Senator WEBBER—But, as I say, the one that says 'abortion alternatives' is very clear. If that was the path I decided to go down, that would not be a service I would ring. It is up front and I do not have a problem. Pregnancy Counselling Australia have chosen to be up front. If I look at Pregnancy Help, it reads 'Pre- and post-abortion counselling'.

Mrs Woolf—Why do you suppose that women know what they want to do before they are counselled? I find this a real problem. Maybe they are just open to counselling.

Senator WEBBER—For the people from Sydney, if I rang that number and, after discussing it with one of the counsellors, chose to avail myself of one of the legally available options, which is termination, would they support me in that?

Mrs Woolf—Yes, they would respect your decision. You are really asking: would they refer? Is that what you are asking?

Senator WEBBER—No. I would mention 'refer' if that was what I was asking.

Dr Vout—I live in Sydney but I cannot speak for that particular counselling agency. It is not affiliated with the Catholic Archdiocese of Sydney. But I would make the point that I believe that providing counselling, as I have said, is to allow the woman to explore her options and clarify thoughts and feelings. Sometimes that will involve the provision of appropriately sourced information. If I were to look at our Catholic code of ethics, we would have no problem with that. Women in this situation need all the information, they should be given the space to make a decision, and we respect an individual's decision, but—

Senator WEBBER—And support when that decision is made I would have thought is part of counselling?

Dr Vout—No, excuse me—as I have said, I think the process of non-directive counselling ends with a woman's decision. Anything that is provided in addition to that by means of referral or support comes after that process.

Senator WEBBER—So I could ring them and discuss the options. If it was not Pregnancy Help Australia, it could be the pregnancy support line, which is a free 24-hour counselling service. It is under 'Pregnancy counselling'. It does not mention support, it does not mention anything. It is in the 2006 *Yellow Pages*. If I ring them saying that I want counselling, will they discuss the three options with me? Will they try and talk me out of the legally available further option, which is a termination?

Dr Vout—Again, I cannot speak for them particularly. Those questions need to be addressed to the organisations. But within my understanding of counselling, all three options would be discussed. What happens beyond that is a different process. I do not see that they have the obligation to clearly state, as it currently stands, that they would not refer for abortion.

Senator WEBBER—As I say, the 'Abortion alternatives' ad, I think, is clear. The new Pregnancy Counselling Australia ad is a step in the right direction from its previous ad. It is clear. I do not find those other two open and transparent in the approach they take.

Dr Vout—I would agree that they are clear, but it says 'Pregnancy counselling service' and that is all. I think we can assume that that is what they provide—counselling about three options.

Senator WEBBER—Right. They would be open, non-directive and supportive, and they would put all of the cards of the table?

Dr Vout—I would hope so. You would need to address the organisations. I cannot speak on their behalf.

Mrs Woolf—Pregnancy Help, Karinya House and places that I know well do offer, literally, accommodation support and support to get your social security stuff sorted out. If you are not offering that, it might be best just to describe yourself as pregnancy counselling, because not every counselling service, whatever their philosophical or ethical background, needs to offer all of those particular physical and emotional things. So maybe the ad says exactly what it means to say.

Senator WEBBER—I am just looking for assurance that it is transparent. The argument about whether or not the third option should be available is an argument that we have all been having for a long time, and we are all going to have to agree to disagree. I think it should be; others do not. But that is not this bill. This bill is about transparency and advertising.

Dr Vout—Yes. Returning to the bill, that ad would become lacking in transparency if the definition of non-supportive—

Senator WEBBER—Exactly. And as such, pregnancy counselling I think is getting close—

Dr Vout—Excuse me, can I just finish? That ad would become misleading if the definition in the bill were adopted. But we are not there yet, so at the moment I think they are advertising what they provide.

Senator WEBBER—As I said, Pregnancy Counselling Australia I think are getting their abortion alternatives. It is up there in lights. It is getting there. 'Are you pregnant? Alone? Need someone to talk to? Scared, confused, needing help? Find a pregnancy help line.' That implies that they will help you. For some people, if you are confused and scared, obviously that third option of termination is in your mind. That ad implies that they will help you and talk through all the options, don't you think?

Mrs Woolf—Yes, which they do.

Senator POLLEY—That is not the question.

Dr Vout—We have agreed that would be a minimum provision encompassed by this concept of counselling.

Mrs Nancarrow—Could I please, for your entertainment, quote from the *White Pages*. Underneath the heading 'Pregnancy counselling and related services' it says, 'We recommend that you fully understand the type of services each organisation offers before you contact them.' How you find out about the services before you contact them I am not sure, but I thought you might be interested.

Senator MOORE—By the advertising.

Senator WEBBER—By the ad, yes. Absolutely. That is a fair point.

Senator STOTT DESPOJA—You are doing my work for me!

Senator WEBBER—That probably makes the bill even more important, not less.

Senator STOTT DESPOJA—Dr Vout, I have a quick question for you. You may not be able to answer it, but do you believe that some women would be more likely—or indeed less likely—to phone one of those services if there were some form of declaration about whether or not they referred for terminations? Do you think it means fewer women would ring that service?

Dr Vout—I think there is a case that that could be an outcome, because it implies something beyond counselling. We have talked about a woman who may be unsure of her options but who, before she approaches counselling, is perhaps leaning towards having a termination. That is going to influence the type of organisation she contacts.

Senator STOTT DESPOJA—And is that not her right? I think, Mrs Nancarrow, your point about the statement in the telephone book is actually a very clever one. But, if she has read the ad and she says, 'Well, if they don't refer, I'm inclined to ring someone else,' isn't that her informed right?

Dr Vout—Yes. Returning to what we discussed earlier about the range of different services being disclosed up front, especially in these directories, sure, women are not silly. But when you are distressed in the heat of the moment you want to be able to access this information quickly. There would be some women who are going to be very suspicious of non-directive

counselling provided by an agency that will refer you to an abortion, just as the converse applies.

Senator STOTT DESPOJA—Yes, I take your point, absolutely. Don't worry—I am not just taking the bit that suits my purposes, because I think the context of your submission is that you want a broader application in terms of diverse services. I understand that, but I was curious to get your answer to the ad stuff.

CHAIR—Thank you very much. We are badly out of time, but can I thank all of you at the table for the evidence you presented today and for the submissions that you lodged with the committee. This was very useful.

Proceedings suspended from 11.09 am to 11.28 am

CALCUTT, Ms Caitlin, Coordinator, Children by Choice Association Inc.

COCKBURN, Dr Sally, Board Member, Sexual Health and Family Planning Australia

GRAY, Dr Gwendolyn, Board Member, Sexual Health and Family Planning Australia

CHAIR—Welcome. The committee will resume its hearings into the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005. I understand that information has been provided to you about parliamentary privilege and the protection of witnesses and evidence. Thank you for appearing before the committee today. I now invite you to make an opening statement.

Dr Cockburn—Sexual Health and Family Planning Australia thank members of the Senate Community Affairs Legislation Committee for inviting us to appear before you to give evidence to supplement our submission in support of the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005 and on the sensitive issues that surround and underpin it. SH&FPA is the national body representing state based family planning organisations on national and international issues. Our members are recognised as the leaders in sexual and reproductive health in Australia. They provide clinical services, professional training and public education. SH&FPA supports the Transparent Advertising and Notification of Pregnancy Counselling Services Bill in its intent to ensure that Australians have fair and reasonable access to transparent, comprehensive and accurate information about the services available to women in the event of an unplanned pregnancy.

We wish first, though, to clarify, if we may, some misconceptions that seem to have arisen during the course of this inquiry. Firstly, neither SH&FPA nor any of its members provide abortion services. Secondly, neither SH&FPA nor any of its members promote or hold a pro-abortion view, nor do any portray abortion as a good option. We hold that a counsellor should give comprehensive, evidence based information about all options but must not influence a client with regard to the direction which their unplanned pregnancy should take. Thirdly, while SH&FPA and its members do receive federal and state government funding, we receive no specific grants for pregnancy counselling services. A figure has been quoted at this inquiry of around $15 million. This does not relate to pregnancy counselling. Rather, it approximates the total level of funding received by our organisation and our members for all of the activities we undertake.

In the course of this inquiry it seems that much of the focus has been on the rights of service providers. SH&FPA, however, believes that the focus should be on the rights of Australian women and their support persons where applicable. Therefore, it supports the purpose of the bill to improve consumer protection. We have also noticed that, although not strictly relevant to the bill, there has been discussion about the desirability of reduction of the abortion rate in this country. Naturally, SH&FPA fully supports this goal but takes the view that using the ambulance at the bottom of the cliff approach is futile. SH&FPA strongly advocates that it is much more productive to focus on reducing unplanned pregnancies through better sexual health counselling and improved access to contraception in order to reduce the rate of unplanned pregnancies. We strongly agree with the stance that no woman should be coerced or forced into terminating her pregnancy and equally that no woman should

be forced or coerced into continuing her pregnancy where that is not consistent with her legal rights.

We note in the evidence and submissions that oppose the intent of this bill that there have been several recurring themes. The first of these is discussion of the definition of the word 'referral'. Some have espoused during the course of this inquiry that referrals may only be made by doctors. This is a nonsense. The word is in common use, describing the provision of information, for example, on how to access adoption services or antenatal services, or even how to get a hairdresser. None of these require a prior formal medical referral and both referrals may be given by counselling services. A woman does not require a formal medical referral to access an abortion service provider in this country.

Yet there is some consternation over the use of this term in relation to when a counselling service may refer to abortion provider services or, indeed, directly or indirectly refer to such people. In the bill, 'referral' is clearly not intended to mean formal medical referral. It is about the provision of information on how or where one might obtain a termination of pregnancy. I heard earlier in evidence some people saying that they would tell people how to find an adoption service maybe or how to access blankets. They are willing to give this sort of information about how to obtain services that may pertain to two of the other pregnancy options, yet they are not willing to give information about how to obtain this service. Speaking clinically, it is semantics to single out this option as the only one of the three where the word 'referral' is not acceptable or has a medical meaning.

Interestingly, the founding principles of the Australian Federation of Pregnancy Support Services, which I will refer to as the AFPSS, state that their members are not to 'advise, provide or refer directly or indirectly for abortion or abortifacients'. There is an article on the ACT Right to Life Association website on the history of the AFPSS. The word 'indirectly' is defined in that article in the context that it must include not referring to the *Yellow Pages* or even to a doctor who might in turn refer a patient to an abortion provider. Could this emphasis on semantics be a way, from an underlying ideology that abortion is wrong, to dilute or to divert a service provider's part in the process rather than an effort to define the clinical terms? SH&FPA has absolutely no issue with such a stance on abortion or with the existence of these services. We support their vital role in the community. However, our members believe that a client has the right to know the limitations that a service may have before they engage with it, because it is the client's view that counts. We do not condone the use of tricky language when it comes to health care.

The second recurring theme is that the bill is unfair to pro-life organisations by requiring services to declare where they do not offer a complete service. I realise that over the last small period evidence was given that there was some movement on this—it may have been that there was a misunderstanding by those groups on this part of the bill—but I would like to say what we feel. SH&FPA can see no reason that any group with a strongly held value should be anything but proud to declare their stance in their advertising material. We would like clarification on what drives groups that abhor the notion of abortion to feel the need to be involved in this sort of counselling, where a woman with an unwanted pregnancy may end up making a decision to terminate her pregnancy, which may mean that those people can no longer give her help. That is especially so, given that proper counselling means that the moral

stance of the counsellor is irrelevant to the process and that they cannot assist her after she makes that decision.

The third theme is the discussion of the definition of the term 'non-directive counselling'. We realise there have been some points made about this already. SH&FPA believe that, while it is not clearly stated in the bill, it is actually implied, of course, that all the other definitions of 'non-directive counselling' apply—that it is the process whereby a counsellor assists, but does not influence, a client's decision-making process to take a particular course of action. The addition of the requirement to offer a complete service does guard against direction through omission. Outcomes can also be influenced by the provision of selective, emotive or non-evidence based information, or through the manner or tone of a counselling process, even if unintended. Interestingly, exactly the same line of reasoning has, on occasion, been used by both sides of this debate to discredit the other. No matter which side one sits on in this debate, we must all agree that non-directive counselling is absolutely essential, and I am sure we do.

SH&FPA believe that non-directive counselling services are those that offer counselling where all potential outcomes are acceptable, where there is no preferred outcome or agenda, where myths are exposed and where evidence based information is provided for decision making. Contrary to the suggestion made in the course of this inquiry, professional services that offer a complete range of services do not automatically favour a particular outcome or try to get a woman to have an abortion just because they can. That argument is not only insulting to professionally trained counsellors and doctors but also quite hypocritical, because those with the view that abortion is wrong use exactly that argument to defend their own position—that is, that their personal views do not influence the outcome of their counselling. It is time to lose the semantics, because the only crucial consideration is the personal views of the client and not the moral stance of the service providers.

The fourth and final theme is discussion of the role of medical services in pregnancy counselling. Some submissions state that only a medically trained person may assess and refer a woman for a termination. Why then, we ask, is it that a non-clinical volunteer counselling service becomes involved in anything other than supporting women who choose to continue their pregnancy? Speaking clinically, time is extremely important in decisions on unwanted or unplanned pregnancies. For example, a delay can be very serious if a woman has an ectopic pregnancy; an untrained, non-clinical counsellor may not recognise the signs of an ectopic pregnancy. Also, if a woman does decide that she wishes to terminate her pregnancy, and she does fit into the criteria under the law in her state, it is accepted that the sooner she gets to that service, the lower the morbidity associated with any procedure that she may have.

In the case of medical abortion, if the protocols around the world that are currently accepted—that up to seven weeks gestation is when a medical abortion may take place—are passed and if a counsellor was, even inadvertently, to cause a delay in a woman's access to such service then that counsellor must accept responsibility for knowing that they have reduced the clinical options of that woman. Also, it is important that a woman understand that a default action of doing nothing will reduce her options and, most likely, will result in a birth, which is fine if that is what she wants. SH&FPA believe that women seeking information related to unwanted pregnancies from a government funded organisation should be able to expect that the information is comprehensive, unbiased, clear and evidence based, unless

otherwise stated. Therefore, we support the bill in proposing to restrict government funding for services that offer primary counselling for unwanted pregnancies to only those that provide a full service or disclose their limitations.

SH&FPA has no issue with organisations that offer support to only women wanting to continue their pregnancy. In fact, we would love to work with them and in many cases we do, as long as it is clear to prospective clients, both in the name and the advertising material they use, what the nature of their business is. Under these circumstances, we have no issue with these organisations being funded.

Dr Gray—I think Dr Cockburn has covered the position quite comprehensively, but I would like to emphasise just three points. Access to a full, comprehensive range of reproductive health services, of which counselling is just a part, is absolutely fundamental to women's health and wellbeing. It is also fundamental to the health and wellbeing of women's children, their partners, their support persons and so on. It is a really crucial health issue that women have access to these transparent, accurate services.

The second point I would like to emphasise is about being pro abortion. As well as being on the SH&FPA board, I also belong to the Australian Women's Health Network. I have had a lot of interaction with family planning organisations and women's health network organisations in Canada, the United States, New Zealand, Britain and different places. I have never yet met anyone who is pro abortion in all my travels in health circles. People are pro choice and not at all pro abortion.

The third point that I would like to make is that in fact organisations, especially SH&FPA and its member organisations, would like to focus on prevention of unplanned pregnancies through a full range of services being accessible, including full education services and appropriate sexual and reproductive health services. If we had that then people would have greater health and wellbeing around their sexuality and their reproductive health.

CHAIR—Ms Calcutt, I invite you to make an opening statement before we proceed to ask questions.

Ms Calcutt—Children by Choice provides counselling information and education services on issues relating to unplanned pregnancy to Queensland women. Our mission is to support the empowerment of women to take control of their sexual and reproductive lives. Children by Choice is an explicitly pro-choice organisation and in that we believe that each woman is an expert in her own life; therefore, the best person equipped to make decisions regarding her sexual and reproductive health.

We have two arms to our organisation, both service delivery and advocacy. In our service provision role we provide counselling information and education services on matters relating to unplanned pregnancy. Currently, we receive state government funding from Queensland Health to provide Queensland-wide telephone counselling and information services for women experiencing unplanned pregnancy. That includes providing referral information on all options: abortion, adoption and parenting. We also offer a Brisbane based, face-to-face counselling service for women experiencing unplanned pregnancy. We also offer training services to health, allied health and community workers on issues relating to unplanned

pregnancy, counselling and information giving. We also provide school based sexual and reproductive health education programs to student groups in Brisbane.

The counselling provided by Children by Choice aims to facilitate women's decision making around an unplanned pregnancy, not to impose the counsellor's values on the woman. We have no financial interest in referring women to any abortion service provider, nor do we have any financial interest in any abortion clinic. We regard our service as professional and non-directive. Our counsellors are required to hold a four-year degree in psychology, social work or a relevant university discipline. As I mentioned earlier, we also engage in political advocacy work. We work to improve women's access to abortion in Queensland, as many women still have significant legal, discrimination and practical barriers in this area in that state. In particular, women who are living in rural, regional or remote areas, young women and poorer women face difficulties in obtaining family planning and abortion services.

Obviously, as a pregnancy counselling service, we engage in advertising and representing ourselves to potential consumers. In our *Yellow Pages* adverts Children by Choice endeavour to make it clear to women that we do refer for all options with an unplanned pregnancy, including abortion. On our website we have clear statements about the purpose of our organisation and the range of activities that we undertake. It is clearly evident on our website that we not only provide counselling and information services but also are involved in activities that promote women's right to exercise their sexual and reproductive health choices. We believe that the purpose of this bill is to ensure all pregnancy counselling services are transparent in their representations to consumers. Children by Choice believe that all organisations that provide any form of service—not necessarily only pregnancy counselling—should be required to accurately represent their services in their advertising. In their submission to this inquiry, the Australian Consumers Association stated:

> ... all services offered to consumers ... should be marketed and provided in ways that are neither misleading nor unfair. It is a basic principle of consumer protection that the consumer should know exactly what service they are being provided with. This is true whether the service is provided by a commercial organization, a government organization or a not for profit organization.

Children by Choice strongly endorses this statement and believes it is particularly pertinent for consumers of pregnancy counselling services. Women who are seeking counselling and information services around an unplanned pregnancy are often in an emotionally vulnerable state and may not feel able to disclose their situation to family or friends. Therefore, they may turn to a pregnancy counselling service for assistance. They often rely on the advertising in the *Yellow Pages* or a referral from their GP to determine which agency to contact. A woman's capacity to make an informed decision and access support for her decision making is compromised when she cannot clearly identify in its advertising the nature of an organisation. If a woman is leaning towards abortion to resolve the unplanned pregnancy, it is important that she can readily identify if the agency that she is calling will (a) provide her with counselling about that option, (b) provide her with information about abortion and (c) assist her to access her chosen option.

The current lack of requirement for transparency in advertising by pregnancy counselling services has negative effects on the emotional and mental health and wellbeing of women seeking assistance with an unplanned pregnancy. Children by Choice regularly receive reports

from clients who were looking for information and support around a decision to have an abortion and mistakenly called a pregnancy counselling agency that advertised themselves as 'providing compassionate counselling that will look at all your options' when in fact the agency would not provide them with information about how to access an abortion. These clients report that they were provided with misinformation about the risk of abortion, such as the false claim about the risk of breast cancer, which caused them great distress. The interaction may have also caused them to delay seeking further help until later in the pregnancy. This has implications for timely access to abortion services and to antenatal care, if that is the option that they choose. These clients would not have called an organisation that did not support abortion if they had been able to clearly identify that this was the agency's position.

Senator Stott Despoja's bill to ensure transparent advertising and notification of pregnancy counselling services is timely and welcome. It does not seek to hamper the freedom of pregnancy counselling agencies to advertise; rather it seeks to ensure that agencies accurately represent themselves to potential clients. Nor does this bill, nor Children by Choice, seek to prevent organisations with a pro-life position and/or with religious affiliations from providing pregnancy counselling services—they have a valid role. Rather, the bill will assist women facing unplanned pregnancy to access counselling and information services that they believe are the most appropriate for their situation. Children by Choice supports the aim of the bill and we are happy, as a pregnancy counselling service, to comply with the provisions of the bill.

CHAIR—Thank you very much to all three of you for those opening statements. Could I start by asking about that last point you raised, Ms Calcutt, about women who you say have their health or welfare compromised by accessing the wrong service or going to a service that does not direct them on to an abortion. You say that a woman's capacity to make an informed decision is compromised when she cannot clearly identify the nature of the organisation in their advertising. There have certainly been quite a few cases put to the committee about women who have gone to pregnancy support services and have been told, allegedly, about how wrong abortion is and have gone away and rejected those services. What those stories all have in common is that the women concerned say that they could see that the service was not the one they wanted, they rejected it and they have gone somewhere else for the service that they do want.

What I want to boil it down to is whether you have any case studies of examples of real women who have got to the stage of using those services and whose health or welfare has suffered as a result of not getting the service that they wanted at that point. You say that women's health can be compromised if they do not get their abortion early enough in the pregnancy, but do you have any concrete examples of that occurring? I might say on the other side of the ledger that those who are opponents of this legislation have provided quite specific cases of where they say misleading or dishonest conduct by abortion providers has damaged the health and welfare of women. There will be a submission later today where those cases will be exhaustively outlined. Have you got any cases of people who have been damaged by supposedly walking through the wrong door and getting information that is not what they require?

Ms Calcutt—Most of the contacts that the women who contact us have had have been over the phone with pregnancy counselling agencies. I did include some of the comments by women in our submission. I do not have any case studies with me today, but I am happy to forward those to the committee.

CHAIR—All of those case studies are of women who have approached a service, discovered that it was not what they wanted and left. In the information you provided, there were no cases of women who suffered some kind of loss or detriment to their health as a result of going to the wrong service. Have you got any cases of that kind?

Ms Calcutt—The women who contacted us were in significant distress because of the information they received. It certainly had negative mental health implications for them because of the misinformation they received and the distress that it caused them.

CHAIR—Can you provide those particular cases studies?

Ms Calcutt—Yes.

CHAIR—You might not have seen the other submissions, but in the submission by New South Wales Right to Life they take up the point about there being an imbalance in this legislation. They say it focuses on a transparency and accountability with respect to one aspect of pregnancy counselling/abortion services in Australia—that is, advertising—and does not address other issues to do with, for example, the actual provision of services and decision counselling around those services. They suggest a number of things for the sake of transparency which ought to apply to anyone who is involved in decision counselling. For example, they include things like requiring that: such decision counselling ought to ensure that the decision counselling is provided by an organisation at arms-length from the abortion provider; decision counselling ought not to be provided on the day of the proposed abortion; and decision counselling ought to provide the pregnant woman with advice about options, including keeping a child, adoption and termination. Why would either of your organisations say that that should not be the case, that they should not have those sort of requirements placed as part of this regime on those who provide decision counselling of any sort?

Ms Calcutt—I think that is something that another piece of legislation might look at. This legislation is to ensure that pregnancy counselling services, whether they offer referral and information counselling on options or just two of the options, represent themselves fairly and accurately.

Dr Cockburn—I would also comment, from SH&FPA's point of view. I totally agree with Cait's comment that that really is the subject of another bill, because this bill specifically talks just about advertising. However, on the notion of being at arm's length, while I can understand the concern of people about vested interest or financial interest, this would be an absolute precedent in health care. It implies that you cannot go and seek an opinion from an orthopaedic surgeon about whether you should have a knee replacement, that you cannot trust a plastic surgeon about information given on cosmetic surgery or that you cannot trust a dermatologist to cut out a lesion; it implies that you would need to see someone else as well.

I may sound dispassionate but I have to speak purely clinically. Let us take the emotion out of it: this is a medical procedure, and many people have said that during the course of

evidence given. As a medical procedure, why are you implying that you cannot trust a trained professional to treat that person?

CHAIR—I suppose it comes to the philosophical question of whether this is just another medical procedure, such as removing an ingrown toenail or whatever, doesn't it? It is argued very obviously by some that this is a very different sort of procedure.

Dr Cockburn—Please, Senator, I am not in any way trying to trivialise the impact of such a decision on a woman's life. However, I must say that to impose those sorts of restrictions upon a medical practitioner is to slur their integrity and professionalism to the absolute hilt.

CHAIR—Some of the services are not provided, though. For instance, counselling services are not provided by medical practitioners, are they? Those services are sometimes provided by other people: it is their professionalism that might be in question, and certainly is in question as far as some of the other submissions that the committee has received are concerned.

Dr Cockburn—I think SH&FPA has no problem with proper, non-directive, appropriate counselling. We certainly have protocols, and most professional organisations that I know of have protocols for their counsellors and they are properly trained.

Dr Gray—I would like to comment on same-day service. Women have said that that kind of provision is deeply insulting, as though they would go along for a serious procedure like this without knowing what is in their minds. There was a huge discussion about this in the ACT, Senator Humphries, which I am sure you are aware of, where we did have legislation in place for a 72-hour cooling-off period and women could not access a service until 72 hours had passed between having first consulted a professional and then having the procedure. Also, services tend very much to be located in capital cities, which is an enormous disadvantage to rural and regional women who live a long way from these services. Apart from being deeply insulting, and many women feel that it is, it is also extremely inconvenient and very expensive to have to come somewhere and wait for two or three days to have a procedure.

CHAIR—Assuming that counselling could not be provided over the telephone.

Dr Gray—Yes.

Dr Cockburn—From a clinical point of view, people have brought up the notion of the value of counselling over the telephone as the only point of contact that someone has. I have had a meeting with Pregnancy Help Australia and they told me that, generally, they refer someone on to one of their members for face-to-face counselling anyway. It would be difficult if that were imposed on people in rural areas.

Senator MOORE—I advise the committee that I am a member of Children by Choice. I did acknowledge earlier to witnesses that I am a member of the Catholic Church but I thought it more important to acknowledge that I am a member of Children by Choice. I know that you heard some of the previous evidence. There was some discussion that this bill undervalues women, that women are more than capable of going to any form of advertisement and being able to work their way through, and that this bill demeans their intelligence by trying to impose this kind of restriction on the advertising. I would be interested to hear your comments on the statement.

Dr Cockburn—I would like to address that because the thing that struck me about this bill, which I think is really important, is that it seeks to address an anomaly in the law. As I understand it, at the moment, if you run a business and sell a service you are subject to the trade practice laws with regard to misleading advertising. However, if you offer a free service, you are not. I think it very responsible in this issue that is so sensitive that the people who offer services—and I include both sides of the coin, if you will—would be subject to the same sort of accountability. Frankly, with regard to advertising, I have a tertiary degree and I have to tell you that some of those advertisements I see entice me into making all sorts of purchases that I possibly should not make. So I think it is reasonable to say that glossy advertisements could be a real problem.

Ms Calcutt—I do not think that Australian men and women are fools. I think we try to act in the best way that we can when making decisions in our lives, but we also have legislation in this country around consumer protection to ensure that we are protected from false and misleading advertising by organisations that want us to engage their services. This bill just seeks to ensure that pregnancy counselling services, like all other services, are covered by consumer protection legislation.

Dr Gray—Just adding to that, we have been regulating medical and health services for about a century and a half. Most communities in most places have realised the need to regulate against misleading claims in the health area, and it is very longstanding regulation.

Senator MOORE—We had considerable discussion yesterday about decision counselling as opposed to pre-termination counselling on the inference that some women are genuinely unsure about what their choice will be and are seeking information to try and find out what the impact will be, where they should go and to whom they can talk—that also applies to their family members or whoever is supporting them, if they are lucky enough to have people supporting them—while others, for whatever reason, are absolutely clear about the service they want and whom they can access through the *Yellow Pages* or whatever under the pregnancy termination section. They have some sense that there would be some choices, maybe not too many in Queensland, that they could make. Do you have a view on that distinction? I would also refer you to the *Hansard* from yesterday and the considerable discussion we had about what is important to take into account when addressing the difference between decision counselling and counselling people who have already made up their minds.

Dr Cockburn—Speaking personally and not on behalf of SH&FPA—I am a clinician of more than 20-odd years standing and I do this sort of thing a lot—there is absolutely a difference. When a woman comes in to see me and she wants information about her options for an unplanned pregnancy, that is decision-making counselling and that involves giving her all the options, dispelling myths and giving her evidence based information that she may base her decision upon, without influencing her in any way. However, pre-abortion counselling is when a woman has already accessed that information, whether by seeking a counsellor or, let us face it, using the internet, and has made a decision on how she wishes to proceed with her pregnancy. In my view, the pre-abortion counselling is ensuring that she is clinically and legally able to do that.

Ms Calcutt—I would endorse what Sally said, but I would also add that there is also a situation in between, where a woman is probably leaning strongly towards a particular option but she wants to have a bit more information and to talk with someone about it before she finally makes the decision. If she does finally make the decision to terminate the pregnancy then, as Sally said, you would be counselling around informed consent for the procedure.

Dr Cockburn—I will give an example of a young woman who came to see me about a year ago. She walked in and said, 'I want to have a termination of pregnancy.' I said 'Why?' and she said, 'Because I think it's the right thing to do.' Those were alarm bells in my ears. I then sat down with her and proceeded to go through her reasoning, what she knew about it, what she understood her termination meant and what she understood about her options. I then asked her to go away, think about it and come back in a few days. We talked about it again. I talked about support systems. I then suggested she bring someone with her—in this case, her father. That woman now has the most beautiful little baby, and she is very happy. I am so pleased that she was able to access a complete and honest counselling service, where she could explore her options and we could pick up the fact that she did not really want to go ahead. She thought it was the right thing to do. Any responsible and professionally trained counsellor would—I would hope—pick up those signs.

CHAIR—Isn't that an argument, though, for not allowing same-day counselling and abortion? In a case like that, if the counsellor had not been not quite so sensitive then having that cooling-off period of 24 or 28 hours would have been a good idea, wouldn't it?

Dr Cockburn—With respect, Senator, she may come in wanting the same-day service but she will not get it. She will have booked to come in, she will still get the pre-abortion counselling from that doctor and that doctor will pick up on the fact that she only thinks she has accessed all her options and will say: 'I'm sorry; I don't believe you should have this procedure today. You need to do some more thinking.' She could not get me to do an abortion against my will—not that I perform abortions; I have never performed one in my life—and she could not get that doctor to do an abortion against that doctor's will.

You could argue that she could go down the street to another service, but I would hope that that service would also say to her, 'No, you obviously haven't really thought this through.' I think it is a very important point that just because you can offer a service does not mean you are going to do it. If you came to me and demanded a knee replacement because you thought you were getting arthritis, I would say, 'It's just not something that I am going to do'—if I were an orthopaedic surgeon. The same applies. That is what clinical judgment is. That pre-abortion counselling is to make sure that that final stamp is there, that this woman has not been influenced and that she does qualify under the clinical and legal criteria.

CHAIR—It relies on that judgment, though, doesn't it? If the judgment is not there then her decision might—

Dr Cockburn—With respect, Senator, at this point they are seeing a qualified medical practitioner. With respect, if you are saying that that qualified medical practitioner cannot give that opinion, who do you want—

CHAIR—I am not saying that—not in every case.

Dr Cockburn—With respect, you did say that, because you said, 'What if they don't; what if they cannot?' What are you relying on doctors to do? You rely on us to treat your heart attack and you rely on us to tell you when we need to take out your appendix. We can make those clinical judgments and you trust us to do that, but are you saying that you do not trust us to make a clinical decision about whether the patient qualifies under the law for a termination of pregnancy? In fact, we are the safeguard.

CHAIR—No, I am not saying that. I am saying that there may be errors of judgment, that anyone can make errors of judgment.

Dr Cockburn—And then you can take that doctor to the medical board, because that is what accountability is all about.

CHAIR—It is a bit late once the child has been aborted.

Dr Cockburn—That is implying that the patient has made the wrong decision. If they come along and the doctor says, 'I don't think you should have this procedure,' and they say, 'No, genuinely, doctor, let me sign the papers; I want to have it,' and the doctor says, 'I really don't think you are ready,' and they say, 'No, doctor, give me the papers; I want to sign them,' are you saying that that is the doctor's fault?

CHAIR—No. I am saying that, nonetheless, it might be the wrong decision of that particular patient.

Dr Cockburn—One of the things I do in counselling that I think is very important is that I actually get patients to write down their reasons and to draw up a contract with themselves. So they are actually making a pact with themselves.

CHAIR—Does every doctor do that?

Dr Cockburn—I have no idea. I do not believe it is in any protocols; it is just something that I do. Again, I am not here to talk about my practice; I am here to talk about SH&FPA. However, I do believe that every doctor—and SH&FPA doctors in particular—will make sure that a patient can satisfy themselves that the decision they are making is totally their own. With respect again, Senator, if a woman does decide to go through with that, does she not have to take some responsibility for her decision, if she believes that she has genuinely been through the counselling process and if she believes that she has genuinely sought all the information she should—or is she always able to say, 'The doctor made me do it'?

CHAIR—We hear a lot about women who are highly fragile in these circumstances.

Dr Cockburn—And we try to pick them up. We do not want anyone to have an abortion who does not genuinely want to have one, believe me.

CHAIR—I was cutting across Senator Moore's questions.

Senator MOORE—I have one more question. It is for both organisations, because both organisations are very well known and have been around for a long time. Do you get referrals? We will not go into the definition of 'referrals'—I am sure that will come out later—but do other pregnancy counselling services send their clients to you, clients who may be seeking information around what is available particularly in Queensland and also from Sexual Health and Family Planning across the country? Do different counselling services send

their clients to you to get further information—on the basis that neither organisation provides terminations, that you provide only counselling services? For instance, another counselling service may have someone seeking information about what is available and, for their own reasons, may not be able to give out that information themselves. Would they be able to contact Sexual Health and Family Planning Australia or Children by Choice in Queensland, and does that happen?

Dr Gray—Yes, they would. Not just other counselling services but general practitioners commonly refer women to trained professionals in sexual health and family planning organisations around the country.

Dr Cockburn—Some of the general practitioners who do refer women are those who do have a conscientious objection to abortion themselves. It is widely espoused that the way a medical practitioner should handle their own moral objection to being part of an abortion process is to expedite a referral—and this is RANZCOG's own view on this—and that that woman should be given an appointment with a doctor who can help them within three to five days. Certainly, Family Planning is well known for that. We would like to receive patient referrals from Pregnancy Counselling Australia, Pregnancy Help Australia and any other pro-life organisations. We would be very pleased to receive the women who they feel they cannot deal with, wouldn't we?

Dr Gray—Yes.

Senator MOORE—How about in Queensland?

Ms Calcutt—We receive referrals from medical practitioners. The majority of our referrals come through the *White Pages* and *Yellow Pages* and by word of mouth. Also, we receive a lot of referrals from other health and welfare agencies, not necessarily pregnancy counselling agencies. Family Planning Queensland and sexual health services regularly refer women to Children by Choice and, as Sally said, we do not tend to receive referrals from organisations like Pregnancy Counselling Australia, but we would certainly welcome them.

Dr Cockburn—Equally, we do and we are happy to refer our clients to them for the wonderful support services they offer to women who wish to continue with their pregnancy but are in distress or are unable to help ourselves.

Senator BARNETT—At the Canberra hearings we heard from Mrs Marie Coleman from the National Foundation for Australian Women. She said:

> … I think there are good quality termination services that do offer some counselling and I think there are some absolutely shabby ones that we could all be deeply mortified about, as in many other places.

I wonder whether you agree with Mrs Coleman and, if so, whether you could advise us how many establishments you think there are in Australia that would meet that criterion. Perhaps that is a question to both Dr Cockburn and Ms Calcutt.

Dr Cockburn—I do not know any specific services like that. I would certainly agree with Mrs Coleman that they should be cleaned up. I think that any disreputable organisation should be cleaned up, and I think that is what this bill is trying to do. I think that this bill, in describing disclosure, advertising and non-directive counselling, goes a long way to doing that. Certainly, I hesitate to say, some of my colleagues do not necessarily live up to the

standards that maybe the colleges would wish, but we do have methods to trap them through patient complaints to health services commissioners and the medical board. That is why those services do not need to be dealt with under this bill, because this bill is about those services that do not have the same accountability protections.

Senator BARNETT—You are not aware of any associations that offer shabby services, as indicated by Mrs Coleman?

Dr Cockburn—Any clinics that offer them? I am not aware in my capacity as a general practitioner—

Senator BARNETT—Any clinics or services at all?

Dr Cockburn—What are you getting at, Senator?

Senator BARNETT—Are you aware of any services?

Dr Cockburn—I thought I had answered that.

Senator BARNETT—That is a no, is it?

Dr Cockburn—I did say that in my opening statement. I said, 'I am not aware of any services.' I am sorry if I did not say that clearly. One of the things that is very good is that if in fact a pro-life counselling service is unable to directly or indirectly refer our client for abortion services, whereby they could not actually give them the address or the phone number of a reputable service, without this bill those women will be left to the discretion of picking one out of the phone book which may lead them to one of those shabby services, if they exist, and that would be a shocking thing.

Ms Calcutt—I think that different abortion service providers offer different types and levels of counselling. Most offer counselling around informed consent for the abortion procedure. We receive many referrals from abortion clinics to Children by Choice for women who are still uncertain about their decision and the clinics do not feel they can adequately provide a decision-making counselling service to that woman. They recognise that that woman might require the services of Children by Choice.

Senator BARNETT—Are you aware of any allegations against poor service levels or any legal action relating to inappropriate service provision with respect to the termination of pregnancy or abortions?

Ms Calcutt—In relation to the counselling around termination of pregnancy?

Senator BARNETT—Or the provision of abortion services.

Ms Calcutt—I think there have been a number of cases in Australia recently about termination of pregnancy—medical negligence cases, just as there are medical negligence cases about a number of different types of procedures.

Dr Cockburn—With respect, allegations are one thing; proof is another. I think it would be reasonable to say that anyone who wishes to find this out could trawl through the annual reports of the various medical boards around the country and find out. I think that if a doctor has been struck off or reprimanded they need to make their clients aware of it. I would hate to think that any doctor who had been so admonished would be practising against those wishes. Again, I do not really see the relevance of this to the terms of reference of the bill; I am sorry.

Senator BARNETT—I am happy to respond to that, but I have a number of questions and I would like to continue, if I could. Does Children by Choice refer women to the Planned Parenthood Clinic at Bowen Hills in Brisbane?

Ms Calcutt—Yes, we provide service information contact details in relation to all the abortion providers in Queensland.

Senator BARNETT—Including the Planned Parenthood Clinic?

Ms Calcutt—Yes.

Senator BARNETT—And that is continuing—you still refer to them?

Ms Calcutt—Yes. I am just wondering: is this relevant to the bill?

Senator BARNETT—Yes, it is, because much of the discussion relates to one side in terms of pregnancy counselling, and there has been some debate as to whether the bill should apply to the other side as well. I am interested to know whether you are specifically aware of a 16-year-old called Sarah. In an article in the Sunday *Canberra Times* dated 14 November 2004—and I am happy to table it; it is a public document—Melinda Tankard Reist refers to a reference from Children by Choice to the Campbell Street centre, the Planned Parenthood Clinic at Bowen Hills, which is the one I have just referred to. It is the story of Sarah, a 16-year-old girl. Are you aware of that story?

Ms Calcutt—I have read that article. I am reluctant to discuss client cases in a public forum.

Senator BARNETT—It is a public document.

Ms Calcutt—I do not think it is appropriate to go into the details of that young woman's case.

Senator BARNETT—Is that because there is current litigation or for other reasons?

Ms Calcutt—There is no litigation that I am aware of that involves Children by Choice.

Senator BARNETT—On its face—and I do not want to read the whole article because people can read it for themselves—the article makes allegations with respect to the inappropriateness of some of the actions that took place at the Planned Parenthood Clinic at Bowen Hills.

Ms Calcutt—We are not responsible for the actions of abortion service providers. We make it clear in our advertising that we refer to abortion services providers, and I think that is what this bill relates to.

Dr Cockburn—With respect, that girl could have got that referral out of the phone book, couldn't she?

Senator BARNETT—It says specifically that it was from Children by Choice.

Dr Cockburn—I realise that, but she could just as easily have picked that abortion clinic out of the phone book and gone there. If it is okay, Chair, I would like to understand the nub of the problem that that woman has. Is it with Children by Choice or is it that she had an abortion procedure?

CHAIR—I am a little reluctant to get to a particular case here. I think this is probably beyond the scope of this inquiry.

Senator BARNETT—Sure. That is fine. It is a public document. You are welcome to peruse it. Maybe if I can go to section 3 of the bill, the definitions section. I will recap the definition of 'non-directive pregnancy counselling service' because it does have a direct impact on those who can and cannot advertise in the *Yellow Pages*. For example, it says:

non-directive pregnancy counselling service means a service that offers counselling, information services, referrals and support on all three pregnancy options …

At Children by Choice, do you offer all three options?

Ms Calcutt—We offer counselling, information and referral around all three options of an unplanned pregnancy. The aim of our service is to facilitate a woman to make the decision that she believes is best for her. But, if she comes to us and she has decided that she wants a termination of pregnancy and she is seeking information in relation to termination of pregnancy, we are happy to provide her with that, and the same goes if she has decided upon adoption or continuing with the pregnancy and parenting the child.

Senator BARNETT—In terms of those three options, of the women who come to you for advice and seek your service, can you share with us what proportion would consequently have an abortion or a termination and what proportion you refer for raising a child or refer elsewhere for an adoption? Can you give us the percentages?

Ms Calcutt—As a crisis counselling service, most of our clients come to us over the telephone anonymously and are looking for information and assistance in making the decision. They do not necessarily tell us once they have actually made the decision and have a termination or continue on with the pregnancy. It is very hard to obtain those statistics, and I think Family Planning would have the same problem.

Dr Cockburn—As a referral service, you may never get feedback—for example, about whether the woman had a baby or whether she adopted. It is not mandatory that anyone report back to any of our services.

Senator BARNETT—Let me ask the question in another way. I will rephrase it. Out of all the women who seek your service and the advice offered, how many do you refer for termination—in numbers or percentages?

Ms Calcutt—I probably cannot give you exact figures here today, but I am happy to take that question on board and forward the information to the committee.

Senator BARNETT—Can you provide rough figures or an estimate?

Ms Calcutt—I would say that over 50 per cent of women do ask us about information relating to termination of pregnancy.

Senator BARNETT—Finally, in proposed section 6 the bill defines misleading and deceptive conduct. In part it is based on the Trade Practices Act, but in section 6 it actually defines what misleading and deceptive conduct is, the way I read it. It says under proposed section 6(1):

A person that advertises or notifies a pregnancy counselling service that does not provide referrals for terminations of pregnancy must include in the advertising or notification material a statement that "This service does not provide referrals for terminations of pregnancy" or a like statement.

If you wanted to try to provide a balance, do you believe it would be appropriate for, let us say, an abortion clinic or a clinic that provides abortions to be required to insert a section similar to that which says something like, 'This service does not provide referrals for adoption,' or, 'This service does not provide referrals for raising a child'?

Dr Cockburn—Can I please answer that?

Senator BARNETT—I was asking Ms Calcutt, but—

Dr Cockburn—Sorry, Senator. I could not see where you were looking.

Senator BARNETT—I am happy to ask you, but could I ask Ms Calcutt first.

Ms Calcutt—I have not heard that suggestion before, but I do think that abortion-providing services that advertise that they offer pregnancy counselling services should be subject to the provisions within this bill.

Senator BARNETT—Maybe I will rephrase the question then. The bill is quite clear. It sets a requirement for the pregnancy counselling service. The quote is:

… "This service does not provide referrals for terminations of pregnancy" …

In your view, to be fair and balanced, do you believe an abortion clinic should also include a descriptor along similar lines: 'This service does not provide referrals for adoption or referrals for raising a child'?

Ms Calcutt—That is actually not part of the current bill. It is certainly something that could be considered, but, as I said before, I think the abortion service providers should be subject to the provisions of the bill as it stands at the moment.

Dr Gray—There is an Abortion Providers Federation of Australasia, which has some very well worked out protocols. I think that the bill is based on the experience of practice and that the protocols were worked out around a comprehensiveness. This bill is about those services that do not provide comprehensive services but prefer to provide a restricted range of counselling services. The protocols that have been worked out by professionals after long and extensive discussion certainly stipulate that a comprehensive range of accurate services about all options will be offered.

Senator BARNETT—The reason I ask is that there is a focus on the importance of looking at the three options—that is a very important focus of the bill, as I read it. Yet, on the other hand, we only have a requirement on the pregnancy counselling services that do not provide referrals for terminations of pregnancy to include that. There is no such requirement on an abortion provider to include a similar descriptor of 'I do not make referrals for adoption or raising a child.' I simply ask if you are happy to acknowledge that.

Dr Gray—Perhaps one of the good things that could come out of a discussion like this is that every service makes it very transparent exactly what they provide and what they do not provide, and SH&FPA would very much support such a position.

Dr Cockburn—However, having listened to Cait's evidence a moment ago, she did say that they do receive referrals from abortion clinics. Surely it is not the provision of an adoption service and blankets and baby clothes that is required of these counselling services but rather the ability to refer to a service that does provide those things. Consequently, as long as an abortion clinic, if it deems that an abortion is not appropriate for a woman, has the capacity to refer them to a counselling service such as Children by Choice or a pregnancy help line, then, in fact, they are in effect compliant with this bill.

Senator POLLEY—Ms Calcutt, in your statement this morning you touched on the mental anguish that some women may suffer if they do not have immediate access to counselling that would give them more information about terminations. The committee has heard evidence, in both Canberra and Melbourne, which suggests that there is no mental anguish for women who have had terminations. With the trauma of going through a medical procedure like that, why would there not be mental anguish? I wonder if you feel that there is scope to accept that there is concern and mental anguish following termination.

Ms Calcutt—The research that has been done in relation to how women cope mentally with termination of pregnancy indicates that, when they reflect on their decision and the experience of abortion, 98 per cent of women believe that they made the right decision at the right time for them.

Senator POLLEY—I think generally we would all agree about the need for transparency in advertising, but, in fact, we have had evidence in submissions that attacks service providers in pregnancy counselling for advertising information on their websites that is deemed to be misleading. I tried to ask this of somebody who I thought was speaking on behalf of your organisation. I understand your website describes the Vatican and the Catholic Church as being 'anti-women' and 'fundamentalist'. In the interests of having equality and fairness in this debate, could you explain to me how that is being objective? It would help in the deliberations on the other evidence that has been given in relation to certain pregnancy counselling services.

Ms Calcutt—Actually, that reference—which is not quite correct—from our website forms part of the essay on the history of Children by Choice. It is not within the section for pregnant woman. Our website is clear on the different sections relating to our service provision and the advocacy we undertake. That is a reflection not on the Catholic Church but on the role of the Vatican in the deliberations on the Cairo agreement on population and development in 1994. Children by Choice does not agree with the Vatican's position on women's access to contraception and family planning services. As I understand it, the majority of Catholic Australians and Catholics for a Free Choice also do not agree with the Catholic Church's position on women being able to access family planning and abortion services.

Senator POLLEY—We tried to seek information in Melbourne, and Senator Barnett did here today, in relation to the amount of pregnancy services that advocate pro choice to get the statistical balance and figures relating to their referrals. It would be fair to say that in Australia you could not justifiably argue that women in Australia are not aware of the option of having a termination and that that is leading to a dramatic number of women who are not given that option.

Ms Calcutt—I think that Australian women are aware that abortion is an option but some women may be in a situation where, if that is the option they are leaning towards, they may not know where they can go to seek information, support and possibly the service of abortion.

Senator POLLEY—We have referred continuously to the *Yellow Pages*. Reading the one in Melbourne—I have not had the opportunity to look at the New South Wales *Yellow Pages*—I would suggest that it is fairly obvious that, if you want an abortion, it is fairly easy to identify the services that provide that. I am interested in following up on Senator Barnett's point in relation to your referrals. Can you highlight for us the adoption agencies that you refer your clients to?

Ms Calcutt—We refer to the Queensland Department of Child Safety and the local services branch within the Department of Child Safety. They arrange the adoptions and they support women adopting out their child. We also have information about other agencies available to women in relation to adoption and I am happy to forward those to the committee.

Senator POLLEY—I have one final question. I apologise because I have to leave to catch a plane. I was wondering if each of the witnesses who are giving evidence at the moment could tell me whether, if there was an amendment to ensure that there was balance and that all of those involved in pregnancy counselling and in termination clinics that provide counselling were deemed to be under the same piece of legislation, you would still support it.

Dr Gray—I think SH&FPA would support such a position, yes.

Dr Cockburn—I agree. I believe we would, but I think we already are in the way it is written. I do not think there needs to be an amendment; it is already there.

Ms Calcutt—As I said before, any organisation that advertises that it provides pregnancy counselling services should be subject to the provisions of this bill.

Senator POLLEY—Termination clinics as well?

Ms Calcutt—Any organisation that says they provide pregnancy counselling services should be subject to the provisions of this bill and that would include pregnancy termination services if they advertise that they do that.

Senator MOORE—Would SH&PA agree with that?

Dr Cockburn—Yes.

Senator POLLEY—In relation to a technical point, my understanding of the legislation affecting Tasmania is that you need two opinions from general practitioners to have a termination, so I am not sure how this legislation would affect the Tasmanian community.

Dr Cockburn—I would imagine the way it would work in Tasmania is that if a girl did turn up at an abortion clinic off the street, so to speak, there would be an arrangement that the clinic would refer her back, if that is the legal requirement, to a counselling service—whether that be Family Planning Tasmania or a GP. Obviously if that is a requirement of the law, the termination clinic has to abide by that. I think it still applies. This legislation would probably work that way. Would that be your understanding?

Dr Gray—Yes.

Senator STOTT DESPOJA—I want to pick up the last point of Senator Polley in relation to the application of such a law, particularly the idea of outlawing false, deceptive or misleading advertising in relation to abortion services. Wouldn't it be your understanding that they are already covered by the Trade Practices Act?

Dr Cockburn—And the medical board.

Senator STOTT DESPOJA—So they are already covered?

Senator BARNETT—What is covered, Senator?

Senator STOTT DESPOJA—Abortion services; termination clinics.

Dr Cockburn—They would be covered under the Trade Practices Act, and then you have the added benefit of the medical practitioners board.

Dr Gray—In the ACT they are regulated, as with any other medical procedure, which is the position that SH&FPA would support.

Senator STOTT DESPOJA—Ms Calcutt, I know that you have covered this issue briefly in your statements today. A statement was made—indeed it is a quite strong claim—in a submission from the Women's Forum Australia, that you and the Bessie Smyth Foundation have a vested financial interest in women choosing to proceed with abortion. I wonder what your response is to that, because it takes conflict of interest to a different level.

Ms Calcutt—I said in my opening statement that Children by Choice does not have any vested financial interest in any abortion provider or owner of an abortion clinic.

Senator STOTT DESPOJA—I refer to some of your responses, Ms Calcutt, and certainly yours, Dr Cockburn, to Senator Humphries's questions at the beginning about counselling and the onus on counsellors to pick up signs and to identify certain issues such as behaviour. I know we are dealing with some issues within the scope of this committee if not exactly within the scope of this bill, but you have underlined for me why an accredited form of training and counselling is perhaps what we should be looking towards. Ms Calcutt, I note that you have said both in your submission and here today that you are looking at a minimum of four years training for your counsellors—is that right?

Ms Calcutt—All our counsellors and employed staff are required to have four-year degrees in psychology or social work or a related discipline, such as behavioural science. They are also required to have counselling experience, and they undertake training with Children by Choice in pregnancy counselling.

Senator STOTT DESPOJA—That has been debated in Dr Cockburn's discussions this afternoon in the context of a woman who is considering a termination. I would have thought that, for someone considering an adoption, there would be some significant issues in relation to counselling and potential trauma or stress. Surely there is a strong argument there for professional counselling?

Dr Cockburn—That is certainly encompassed in SH&FPA and in the SH&FPA member organisations counselling training programs that we professionally run. Supervised training is part of that, certainly, and it is not focused in any way on termination of pregnancy. That is

one of the options, but the other two options are given an equal amount of training and are taken very seriously.

Dr Gray—Senator, I think your point about accreditation is very important. In every area it is a question of getting standards, and I think that is where the Abortion Providers Federation of Australasia did a lot of very good work in developing some protocols. I understand that organisations voluntarily became accredited with the Abortion Providers Federation of Australasia but I do not think it is compulsory. So moving in the direction of having some publicly debated and acknowledged levels of accreditation and accreditation procedures would be very good.

Senator STOTT DESPOJA—So you would support that, perhaps in addition to this legislation but not in lieu of it?

Dr Gray—Absolutely.

Dr Cockburn—SH&FPA is perfectly positioned, being the federal and state government funded sexual health and reproductive health educator as well as clinical service providers, to advise on that sort of process, and probably we would even be able to provide that sort of process. Obviously that would be something for our board to discuss, but I could see no reason why we would not assist with the drawing up of those sorts of guidelines.

Dr Gray—Yes. We could provide a leadership role or a supportive role with organisations.

Senator MOORE—That is an advertisement.

Senator STOTT DESPOJA—It was, really. As long as it is transparent I do not mind.

Dr Cockburn—I do not get paid by SH&FPA.

Senator STOTT DESPOJA—I will not go down that path any further, but it just occurred to me that we talk often of referrals and counselling in the context of terminations, but the bill is not restricted to that issue. Senator Barnett came up with a point, and I think it is a relevant one, about the issue of even-handedness and fairness in terms of the legislation. I was thinking particularly of the definition under section 6, and the disclaimer or statement that is recommended as per this bill, or a like-minded statement that is prescribed in this bill, for an organisation that will not refer for terminations. I would have thought we could look at that by saying this organisation fulfils the criteria of non-directive—this is a non-directive pregnancy counselling service. Thus, it would fulfil the criteria and, therefore, it would be up front, as you have said in your response, Dr Cockburn. It would otherwise make clear one way or the other whether or not a counselling service provides referrals for terminations or does not. I am not sure if you are aware of any services that refer for terminations that proclaim as openly as Children by Choice, Ms Calcutt. I do not know if there are any examples where they advertise. That is not clear, and maybe we can look into that just to make sure that that is up front as well.

Dr Cockburn—With regard to non-directive counselling, a point that seems to have been largely overlooked is that while non-directive counselling does involve all options—if you omit an option, obviously that would be tantamount to direction—it also involves quality of the information provided. I heard evidence given in the previous session, and their comment was ‘Our only restriction is that we can’t refer for abortion and so, therefore, we do offer a

complete service'. One of the things that needs to be looked at with services that provide any service is what is the quality and veracity of the information that they give to women. I believe that earlier today the issue of the risk that maybe exists between abortion and breast cancer was mentioned.

Senator MOORE—We will be following that one up.

Dr Cockburn—I have with me the World Health Organisation's statement on that. I wonder if it is possible to table this, and to read the statement, which was the World Health Organisation fact sheet No. 240 of June 2000. The heading is 'Induced abortion does not increase breast cancer risk'. That is the World Health Organisation's statement. It was the counselling service representative who mentioned before that they believed there was a link; do they also give this information to the woman? I can assure you that members of SH&FPA would certainly acknowledge that there is concern amongst certain groups that there may be a link with breast cancer, but we will give them this evidence based information as well. We do not ignore the things that other people will say and we do not ignore that people have brought up the risk of physical and mental complications. We simply want to put a balanced point across. Is it possible to table this document? Would that be useful?

CHAIR—Yes, it is.

Senator STOTT DESPOJA—That is a point we will be pursuing, and your point about direction through omission is something that has not been adequately put on record, certainly in response to Senator Barnett's question. I think that is an important point, and hence the definition of non-directive.

Dr Cockburn—It would work for both sides too.

Senator STOTT DESPOJA—I would have thought so.

Dr Cockburn—It would probably allay the fears of pro-life organisations that worry that maybe information is being left out on the other side.

Senator STOTT DESPOJA—Ms Calcutt, obviously we have seen your advertisement. It certainly seems quite up front to me. You clearly do not have a problem being explicit in outlining whether or not you provide all-options counselling or, to use another definition as per the bill, non-directive counselling, or that you refer for terminations. You do not have a problem in stating that up front so that people are aware of that when they look at your advertisement or your paraphernalia.

Ms Calcutt—No, we try to make it as clear as possible in our advertising and our promotional material, and on our website. If you look at our website, it is very clear that we provide all-options counselling in relation to unplanned pregnancy. But, as I said before, we have a clear position—

Senator BARNETT—To all women who seek your services?

Ms Calcutt—We offer all-options counselling. We offer counselling to women as they seek it from us.

Senator BARNETT—As they seek it from you.

Ms Calcutt—Yes, as they seek it from us.

Senator BARNETT—There is a big difference between offering it to all women who seek the service of your entity and those who seek a specific type of option. I just want to make the difference, Senator Stott Despoja, that there is a significant difference between the two.

Ms Calcutt—Can I finish answering the question? I was saying that it is clear on our website about our position in relation to women being able to make decisions about their sexual and reproductive health choices and that we do support women being able to make the decision to have an abortion.

Dr Cockburn—Senator Barnett, it might help you if I say this. Again, I am speaking personally, but I believe this would be the way it would happen. The way a counselling session like this would happen, if a woman were to come in, is this. She may walk in the door—and this happens in my general practice—and say, 'I'm pregnant,' and I would ask, 'How do you feel about that?' She may say, 'I'm really happy,' under which circumstances I am not going to suggest anything about termination services. However, if she said, 'I'm not sure,' I would say: 'Let's talk about it. What options do you know of?' The counselling process actually explores the patient's understanding first before advice is offered. It is about trying to get a handle on what the patient wants to do. If the patient says, 'I really want to know what all my options are,' then you will say, 'Well, the options are threefold,' and we have been through those today.

If a woman walked in and said, 'I'm really happy about being pregnant,' and you said, 'Well, did you know that you've also got the option of a termination?' that would be absolutely inappropriate. I do not believe that anybody would do that. The situation would go equally the other way. If a woman walked in and said, 'I'm very unhappy about being pregnant,' we would ask her: 'Have you thought about continuing the pregnancy? What are your objections to doing that? What are your barriers to doing that? Can any of these barriers be resolved? Is there any way I can assist you to resolve those barriers? Are there any support services I can refer you to? I have access to a barrage of support services if you are unsure.' It is not about our thoughts and our morals; it is about the patient and the client. This is the main point that I think I have seen in all the evidence. I do not know why we are concentrating so much on the rights of the service providers. This is about the rights of the women.

Senator STOTT DESPOJA—Is it important for those women who do ring you, walk in off the street or contact you by whatever means, to know what you stand for to begin with? In the case of that woman, where you offer or explain information on one, two or three options, is it important that she knows that that is what she is going to have access to or information about?

Dr Cockburn—Frankly, I cannot speak for SH&FPA on this. Maybe Gwen could assist me. I would like to see medical practitioners having to also declare their bias. If they are unable to refer to a service because of their personal bias, I would like to see them have to declare that with maybe a sticker on the door. If a woman knows before she walks in through the door of a clinic that they will not provide her with a termination referral, why waste her time, why waste the practitioner's time and why waste the Medicare dollars? Why not let people know up front what sort of service they are going to access before they access it? I cannot understand how anyone could object to displaying those values openly.

Senator STOTT DESPOJA—You are not scared that, by being up front in your advertisement, you might scare people away, you might not get the call that you would have got to begin with?

Dr Cockburn—No, absolutely not. If they did not want to access a service because we offer a termination service then that would be up to them. I would hope they understood that us offering the service does not mean we are going to make them have one. I would hope they would understand that that would mean that it is a possibility, that we will discuss it with them. It certainly does not put any slant on it. I would have absolutely no problem with that. I could see no reason to. In fact, SH&FPA's members are very up front about the services that we offer. Our website states quite clearly what we offer.

I had a meeting with Pregnancy Help Australia. I would like to go on the record to say that I found the women I met with particularly professional and very caring, and I respect their work immensely. However, I did ask why they do not state on their website that they do not refer for abortion. I asked during a telephone conversation with Ms Foster, who is the coordinator in Canberra. She said to me, 'We'd be concerned that there may be some girls who are teetering on the edge of a decision and who may choose not to access our service if they see that we do not refer for termination.' I can understand why she would feel that. However, I would hope that she would feel comfortable to know that, if this girl went and accessed a family planning service, we too would protect her rights and make sure that she did not get referred for a termination of pregnancy unless it was her informed decision and she did it for appropriate clinical and legal reasons.

May I also say that this meeting showed me that there is not enough communication between the pro-life organisations and the pro-choice, if you will, organisations. In fact, we are after the same things. We want women to be able to make the right decisions. If we could have more dialogue between the organisations and find places that we can work together, it would be much better.

Ms Calcutt—I think that goes back to the intent of the bill, which is not about outlawing different types of services but about recognising the different types of pregnancy counselling services in Australia. This bill is about ensuring that we represent ourselves accurately to women who may be seeking our services.

Dr Gray—There are people in the community with very different views, so they require access to different services. There is a place for all these services. It is a question of transparency.

Senator ADAMS—Coming back to the role of counsellors and their accreditation, I was a little worried this morning when Dr McCaffrey said that there was a risk for counsellors who can offer a referral for abortion because, if they are tired, they might take the easy option and give a referral for that, without really doing anything else. I sort of looked at him, because I did not know whether I had heard him correctly. I probably should have pulled him up on it. Having listened to the three of you about your level of counselling, I am really concerned about whether other organisations are able to provide that same level. They cannot provide a medical service, but somewhere along the line we have to make sure that people are getting the right messages.

Dr Cockburn—I concur with your concern. I heard the statement made by Dr McCaffrey. I was not quite sure whom he was referring to, in the sense that he was not referring to his services; I think he was referring to other pro-choice type services. In my view, a person—a counsellor, a doctor, a nurse or whoever—who is giving a professional service to a client and who is tired to the point where they believe that they cannot function should voluntarily step out of that role and get someone to take over from them. Our trainees at family planning services are supervised for a portion of the time and are able to have a debriefing. I cannot imagine that that situation would arise. I do not know what he is basing it on. I hope that the counsellors he is training are not in that boat and that, if they were tired and felt the need to continue counselling people, they would be able to step back.

Dr Gray—It is certainly not the kind of service that is conducive to women's good health and wellbeing.

Senator ADAMS—It is another thing, but we have to look at it.

Senator NETTLE—I have one question. When Senator Humphries asked Ms Calcutt about the negative experiences that women have had in accessing pro-life counselling services, I thought Dr Cockburn was nodding. I want to give you the opportunity, if you have examples of women who have had that experience, to tell the committee about them.

Dr Cockburn—It was more about the difficulty with this sort of thing. A counselling service does not always know the outcome of what they have done, because sometimes the woman will walk out almost having made her decision but not quite, and she may refer herself somewhere else. But, more to the point, with the sensitive nature of this sort of clinical procedure, it may not be something that is audited. It would be unlikely that you would sit down and audit every clinical diagnosis that is made and, at the end of the financial year, say, 'We made 500 diagnoses of whatever and 400 diagnoses of whatever.' It would be very difficult to produce the concrete figures that are required. I should have shaken, not nodded, my head.

Senator WEBBER—Returning to my second favourite book, the Sydney edition of the *Yellow Pages*, I was reading out some of its ads—including one for Pregnancy Help Sydney and others for pre- and post- abortion counselling—to the witnesses earlier. We had a discussion about what they knew about those services and whether those services would be guaranteed to offer all three options and not to seek in any way to talk someone out of pursuing one of the three. I discussed these issues with witnesses from Pregnancy Help Line. In that discussion it was conceded that, at the moment, those ads would not comply with this legislation. Senator Stott Despoja followed up with a question, and it was conceded that, if they did have to comply, they would get fewer calls. I have some concerns about that. I was wondering whether professionally that would raise any concern. If they had to comply and advertised that they would not discuss termination as one of the three options, they then felt that they would get fewer phone calls. What does that say?

Dr Cockburn—Is it about whether they get fewer phone calls or is it about whether women get to find out and get referred to appropriate services? I would have thought the latter. Given that I do not believe that there is any case for saying that services such as Children by Choice or family planning organisations lean towards the option of abortion we,

like them, would be non-directive counsellors. So the fact that they do not offer that service is their choice. It is not a mandate; it is not required of them. It is a choice they make. We would pick up the gauntlet of looking after the counselling needs of those women who did want to look into their options regarding abortion. I wonder whether those services may end up getting more calls. In fact, once they know that they do not offer abortion services, those women who want to explore their options of keeping a child will actually notice that. It really depends on women understanding what counselling is. Some women may think, 'If I go to a service, I will be talked into something.' They may have that misconception, if you will excuse the pun. The thing is that, if they know that they are not in any way going to be talked into an abortion, they are safe to go there. So I suspect they may get more calls. Unfortunately, I would like to re-educate the public so they know that counselling services do not talk them into doing anything.

Dr Gray—I have not read your second favourite book, Senator Webber.

Senator MOORE—It is a real killer.

Senator WEBBER—I am sure tomorrow I will find my third favourite, which will be the Adelaide edition.

Dr Gray—Is that all the advertisement says: 'Pre and post abortion counselling'?

Senator WEBBER—Yes, 'Pregnancy Help Sydney.' This is the 2006 edition of my second favourite book: 'Pre and post abortion counselling', and it gives you a phone number to call.

Dr Gray—One would assume that one would get information about abortion from that service.

Senator WEBBER—Which, as I said, raised my anxiety levels when it was then said that if they had to say in that ad that referral to termination was not a service they would provide, people think they may get fewer calls; therefore, the professionalism of the counselling that is offered—

Dr Cockburn—Through the chair, if I may—am I correct, Senator Stott Despoja?—that one of the catalysts for this bill was a campaign by Pregnancy Counselling Australia to send to every general practitioner in the country a poster which has a nice lady on it. I cannot now remember what it says. We received one in our general practice. I in fact arrived at my general practice and found this poster laminated and on the wall. I said to my practice manager, 'What's this poster about?' She said, 'A pregnancy counselling service has sent us their wares.' I said, 'What sort of services do they offer?' She said, 'I presume they offer all services. That's why I've laminated it and put it up there.' I said, 'What if I told you that they do not offer referral for abortion?' and she took it down. I do not know whether I am allowed to ask a question. Have there been complaints about that from doctors? I know, anecdotally, my colleagues were talking about this. They thought it was an all-options counselling service and did not realise that it was a partial-options counselling service.

Senator STOTT DESPOJA—Dr Cockburn, I think you might find the chair says you are skating on thin ice. I have assiduously avoided putting my name down as a witness on the other side of the table. I think we can anticipate the response, but I will just make sure that that has been tabled for the benefit of committee members.

Senator BARNETT—I would like to officially table the article in the *Canberra Times* of 14 November, 'One mum's nightmare won't go away'.

Dr Cockburn—If there is a photo of that, could that not be tabled? I know it is a public document.

Senator BARNETT—It is just a newspaper article. There are no photographs. It is on the public record.

CHAIR—Thank you for the evidence which you have provided today. It has been very useful to have this session. Thank you for your submissions that you have lodged with the committee.

Proceedings suspended from 12.59 pm to 2.00 pm

van GEND, Dr David, Secretary, World Federation of Doctors Who Respect Human Life, Queensland Branch

LYNCH, Dr Johanna Margaret, Director, Women's Forum Australia

TANKARD REIST, Ms Melinda, Director, Women's Forum Australia

CHAIR—We resume our hearing into the **Error! No document variable supplied.**. It is my pleasure to welcome representatives of World Federation of Doctors Who Respect Human Life, Women's Forum Australia and Ms Melinda Tankard Reist. Thank you all for coming today and for the submissions which you have lodged already with the committee. I think you have all received information about parliamentary privilege and the protection of witnesses and evidence. We will be asking you some questions about the submissions you have lodged. I now invite each of you to make a short opening statement before we proceed to questions.

Dr van Gend—Thank you for the opportunity. As a family doctor I have been involved with pregnancy counselling services for many years and I have served on the management committee of Queensland's main counselling service. I completed a counselling course with this service as a medical student, and I found its quality to exceed that provided during our medical course. These services have been run by a mix of professionals and trained volunteers with remarkable dedication and expertise for over a quarter of a century, helping many thousands of women and their partners. In the last year, for example, of the roughly 1,000 feedback forms received by this Queensland service, there was a 100 per cent positive response. I repeat: there was a 100 per cent positive response in the feedback forms in the last year. The most frequent comment was: 'I felt I was listened to. I was not judged.'

Such counselling services are not sneaky, bullying or lacking in transparency; they are deeply appreciated by their clientele, with extraordinarily positive feedback and negligible complaints. They are doing a work of incalculable importance to women. They have done it for decades with great sensitivity and high professional standards and are worthy of our admiration and our gratitude.

This bill is a thinly disguised attack on such services. This bill intends to put out of business any pregnancy counselling service which will not refer for abortion. The bill threatens that unless a counselling service agrees to refer for abortion it will be cut out of all federal funding; that unless it agrees to refer for abortion it will be banned from an essential advertising site—the 24-hour health and help page of the phone book; and that unless it agrees to refer for abortion its current listing in the *White Pages*—a listing that has served for 30 years without complaint—it will be prosecuted with 10,000 penalty points.

This divisive bill sets out to identify services which do not refer for abortion and starve them of funds and clientele, intimidate them with threats of prosecution and marginalise them as second class and slightly suspect services. Such an attempt to suppress community groups who do not share the permissive views on abortion held by the framers of this bill is surely a misuse of parliamentary power, and for that reason this bill should be rejected. But the bill should also be rejected for its basic errors of fact and incoherence—faults in the bill which mean that its objectives are not only mean and divisive but also unachievable. The bill's incoherence has been widely criticised in submissions and hearings so far, principally that the

requirement for a counselling service to refer for abortion at all is a nonsense. Only a doctor can make the medical assessment that a person is physically and psychologically fit for any surgical procedure. Counsellors have no competence with the medical history and examination essential before advising any procedure. But the bill is built around this one mistaken concept that there exist out there services which will refer for abortion and counselling services which will not. That distinction is false since no counselling service at all is qualified to refer for abortion. The whole basis for discriminating between so-called non-directive services which will refer for abortion and those which will not is muddled and unsound, and therefore the bill itself is unsound.

In conclusion, our federation opposes this bill because it is a clumsy and even offensive attempt to suppress respect worthy community groups who have done great good over many years while elevating other groups who share the permissive views of the framers of the bill. We ask that it be rejected by this committee as being unjust in its discrimination against valued community and counselling services and as being unnecessary, given the overwhelmingly positive response of clients to these services, and because it has been fatally flawed by its conceptual errors and incoherence.

CHAIR—Turning to Women's Forum Australia, I understand, Dr Lynch, that you have a submission in your own right before the committee and that there is also one from Women's Forum Australia. I invite you to make an opening statement while wearing both hats at the same time.

Dr Lynch—I will be mostly addressing the Women's Forum Australia submission. Thank you for inviting me to present to you today. I am a GP in suburban Brisbane who has a predominantly counselling patient load and I am currently undertaking a postgraduate degree in grief and loss at the University of Queensland. I have recently joined the board of directors of Women's Forum Australia. To begin with today, I would really like to applaud any attempts to ensure transparency in advertising and to protect against coercion in this delicate and sensitive field of caring for women in crisis pregnancy. Women's Forum Australia agrees that there should be truth in advertising in relation to pregnancy counselling services. However, Women's Forum Australia cannot support this bill. The problem lies with the definition of non-directive pregnancy counselling in section 3 of the bill.

Firstly, the bill confuses the role of counsellor with the role of medical practitioner by insisting on the word 'refer'. Women's Forum Australia affirms that the proper role of pregnancy counsellors is to provide information which assists the woman to make her own decision and to support her in exploring her own issues, which might include terminating or continuing the pregnancy. Pregnancy counselling services should also provide the woman with access to essential practical support if she should decide to continue the pregnancy. The role of referral, however, is the domain of the medical practitioner, who has the skills to enable and ensure informed consent. Secondly, Women's Forum Australia notes that the bill fails to acknowledge the vested financial interests of some counselling services. It is noted with some misgiving that this group of advertisers has not been included in this bill's attempt to decrease coercion and increase transparency in the care of women in crisis pregnancy.

In my work with women considering abortion, and in caring for women suffering from post-abortion grief, I have come across many cases where the desires of the mother in crisis

have been subjugated to the desires of those significant others in her life—whether the father or her own parents—and financial, social and emotional coercion have resulted in abortion. I have been acutely aware that the medical system, which often profits financially from this decision to abort, has not helped them to withstand this coercion. This anecdotal evidence has been confirmed by international studies and clearly summarised by Women's Forum Australia's own document *Women and abortion: an evidence based review*. I can table a copy of that publication for you.

Also, as mentioned in our submission, there are some organisations, namely the Preterm Foundation and Australian Birth Control Services, that only charge for their counselling if the woman does not proceed with abortion. This is clearly a form of directional counselling. Women's Forum maintains that transparency and full choice in advertising and notification of pregnancy services should require counselling services to disclose whether they have a financial interest in a woman's decision to terminate. In the case of Children by Choice and the Bessie Smyth Foundation, they refer women to other counsellors such as abortion providers who have a vested financial interest. Women's Forum Australia believes that women facing a pregnancy in difficult circumstances are entitled to expect non-judgmental, independent, unbiased and professional counselling by providers with no vested interest, particularly of a financial nature, in the woman's decision.

I would like to focus on the clinical imperative to provide a woman in crisis pregnancy with a caring space to explore her feelings. This bill, in its insistence in the use of the phrase 'does not refer for abortion', seems to be trying to politicise those counselling services that seek to care for women in crisis pregnancy and, in effect, forces the political polarisation that does not exist in respectful care for each woman into even our phone book pages. This bill should not be about political polarisation but about our duty of care to the vulnerable women in crisis pregnancy. So I reiterate Women's Forum's call that the bill should define non-directive pregnancy counselling services as a service that offers counselling about all three pregnancy options by counsellors who are independent of the abortion provider and who have no direct or indirect financial interest in a woman's decision to terminate her pregnancy.

Ms Tankard Reist—As I said in my submission to this committee, I believe that the bill is flawed on a number of grounds. In my view, the bill is mainly flawed because it is too limited in its scope. The underlying assumption in this bill is that pregnancy support agencies which are not directly connected to abortion provision require particular scrutiny but that abortion providers who provide counselling and organisations that routinely refer to them do not need to be transparent about their positions and activities in the same way.

I want to stress here that I have absolutely no doubt about Senator Stott Despoja's commitment to women and her long engagement in issues to try to improve the status of women and bring about gender equality, but I think that this bill is seriously flawed. If the committee is serious about transparency and women's health, it should shift its focus to, or at least include within its current examination, the non-transparent activities of abortion providers across the country.

You will possibly be aware of my research in this area that I presented to a previous committee about this. I have written a couple of books on the subject. The main theme of the first book, *Giving Sorrow Words*, was that too often women were not adequately informed and

did not go into termination with a clear understanding of the potential ramifications. Many of them felt that the counselling they received was token or nonexistent, that it was a mere tick a box procedure to secure an abortion decision. I have collected the stories of a significant number of women over the last few years, and it gives me grounds to believe that the focus of this inquiry is unfortunately misguided. I will not go into that research now because I have given a number of examples in detail in the submission.

I believe scrutiny should be levelled at the operations of too many abortion providers who fail to disclose risks and alternatives and, in more serious cases, leave women physically and psychologically damaged. Any legislation should address the false and misleading advertising of abortion providers who infer they offer counselling when they do not or influence women not to have counselling at all by charging additional fees for it, who claim to canvass all pregnancy options but do not or who claim to provide non-directive counselling and then push women in the direction of abortion.

Unfortunately, I feel this bill comes across as quite punitive. It limits options by restricting women to agencies connected to abortion provision. It ignores the fact that providing an instant, on-the-spot, same-day termination can constitute direction and pressure to take that path. Counselling must be independent of the abortion provider. Regardless of anyone's politics on this issue, I do believe this is imperative. We need to ensure that counselling is separate to protect women, to avoid vested interests and to minimise the opportunity for coercion. Women must be given the opportunity to access independent counselling services and independent medical advice. Unfortunately, this bill further entrenches the privileged status of abortion. It privileges medical interventions over other alternatives because of the questionable assumption that abortion providers truly care for women. For these reasons, I cannot support this bill.

CHAIR—I thank each of you for those opening statements. Dr Lynch, you made the point before about the fact that some abortion services charge a counselling fee of $50 in the event that a woman chooses not to proceed with a termination. You went on to say that that made it a directive service rather than a non-directive service. Can you explain that point?

Dr Lynch—I guess it is tightly linking the outcome of the counselling to a financial situation. In that sense, I think it influences and causes a change in the relationship that would be happening within that counselling.

CHAIR—Are you saying that it affects the nature of the service, that it is no longer a service offering any choice, that it becomes a service based around recovering a fee for a particular outcome?

Dr Lynch—Yes.

CHAIR—Ms Tankard Reist, I want to ask you about the central point you raised in your submission about the level of imbalance in the legislation in focusing on advertising but not on delivery of services. We have had widely different evidence before the committee about just what the situation is in respect of the accuracy and standards of provision of information to women who go to people providing abortion services. In fact, some submissions in support of the legislation have made the point that some services are not very good. One quote from evidence we received in Canberra suggested that there are some 'shabby' providers of

abortion services about which people could be 'deeply mortified'. That was in Mrs Coleman's evidence. We have also had other evidence that suggests that there is not an awareness of the lack of quality in that sector. The cases you cite are obviously of women who would say that they have had a poor quality of service. Based on your research, do you have any idea of how extensive such a problem would be? Is it an isolated problem, is it a problem which affects a significant number of women or is it something in between? How would you describe the nature of that problem within this sector?

Ms Tankard Reist—Firstly, I would like to acknowledge Marie Coleman's statement about 'shabby ones that we could all be deeply mortified about'. These admissions are not made very often, and I found that a refreshing acknowledgement. Again, regardless of anyone's politics on this issue, we should all agree that a woman should not go into an abortion clinic not fully informed, not giving informed consent and come out physically or psychologically injured. I think this is a baseline common denominator we could all agree on. But, unfortunately in my experience in my research over the years, too often examples of brutality and violence against women in these settings are ignored because of ideology. Too often, I feel ideology triumphs over the genuine real needs of women.

To answer your question, I acknowledge that my book is not and my studies over the years have not been scientific. I am not a scientist; I am a writer and I like to collect women's stories, particularly stories that have not been told. But I have heard from hundreds of women, and what is disturbing is that nothing seems to have changed—and these women are from all over the country; I continue to hear from them. The book was published in 2000, but frequently I am still contacted by women who have had negative experiences in abortion settings. In my view, it is widespread and ongoing; it has not changed. I think that women deserve better. They deserve access to independent counselling services not connected with abortion providers.

I am not saying that every abortion provider exploits women or rips them off, but I think there are too many that do not genuinely care for women and give them the space they need to fully explore their emotions around the pregnancy and to fully explore other options. Too often, particularly where there is a same-day counselling and same-day abortion provision, there is not the space women need and they often cannot get out of coercive situations. They cannot, as I said, explore other options and really think through the issues. So the short answer is that it is widespread, ongoing and continuing.

CHAIR—Of the women you spoke to for this particular book, do you recall whether any or many of them had accessed complaint mechanisms about the services they had received and what the outcomes of those were?

Ms Tankard Reist—Some of them had, but too often the outcomes were not in their favour. Too often they were made to feel that they had done something wrong and that the onus was on them to demonstrate that something had been handled badly. In the cases where women had taken legal action—and there are a number of cases ongoing as we speak—there was often an out-of-court settlement, but, again, many of the women did not feel that the process was caring and sensitive to their needs. Some of them described it as feeling similar to a rape victim: it was difficult to speak out, difficult to say anything and difficult to go through the process. So, where the very limited complaints mechanisms were accessed, often

the women did not feel satisfied with the outcomes. If they decided that they wanted to take legal action down the track and accessed a health complaints tribunal or went through a health complaints process, sometimes the evidence they had given was used against them in the legal setting. They were not aware that what they said in the health complaints process could be used against them down the track. So some women are reluctant to access those kinds of services.

Dr Lynch—Could I speak from a medical point of view on that. I think there is a structural way that it is set up, so this problem will be an ongoing one. Normally, with any kind of surgical procedure, some normal medical restraints are implied, so a separate person refers. That is part of the safety that is implied when a doctor refers. At least in my state, no referrals are required for abortion, so a woman who is vulnerable, in crisis and has a journey around her of lots of pressures is put directly into the hands of somebody who will benefit financially from her decision to abort. In any other procedure the process of referral is 'gated' at the general practitioner. We would assess and be very aware of the other people in her life who are pressuring her to make a decision against her heart, and we would protect her in some way from the medical structure that may coerce her. The fact that abortion does not require referral places vulnerable women into the hands of medical and surgical people without the normal safety requirements of other medical procedures where surgery occurs.

I am actually deeply concerned about my own profession in terms of the regulation of abortion providers, at least in my own state, in that area of protecting the vulnerable woman in crisis from somebody who is medically trained and has all the reputation and honour given to our profession—unduly, in many cases. It is the same as general practitioners not being able to sell a medication that we would tell somebody to have. The safety implied in that protects those of us—only a few of us—who would benefit financially from the process. So I think it is a structural flaw in the whole set-up that puts women at risk.

Senator STOTT DESPOJA—I would like to pursue that point that Dr Lynch just made. First of all, welcome everyone, particularly Ms Tankard Reist for your nice comments. I acknowledge that we have some differences. Dr van Gend, you and I have had some interesting exchanges over the years, but I did not expect such a personal submission. We will get on to that point. Dr Lynch, based on what you just said to Senator Humphries about the issue of referrals, particularly in Queensland—you cite the example that you do not need a medical referral—if I were to say, 'Is the framer of this bill not aware that only medically qualified people can refer for the medical procedure of abortion?' that would be a wrong statement, that only professional medical staff can refer.

Dr Lynch—Yes. In fact, nobody can refer. So your bill requiring referral from a counsellor is flawed.

Senator STOTT DESPOJA—It does not require counsellors to provide referrals. It is just if they describe themselves as non-directive. But that statement—

Dr Lynch—Your statement implies that whether or not they are non-directive equals whether or not they are referring, doesn't it? That is the definition.

Senator STOTT DESPOJA—It certainly deals with a definition, but I do not want you, Dr Lynch, or Dr David van Gend from his comments before us today, to make any mistake in

thinking that that in some way does not qualify you for funding. But I want to go back to the very specific issue of medical referral for abortion. You have just told the committee that medical referral is not necessarily required for the procedure of abortion. Whether or not people agree with that, I want to get the facts right. Women can in fact self-refer, as you have made very clear. Yet Dr van Gend in his submission has stated clearly:

Is the framer of this Bill not aware that only medically qualified people can refer for the medical procedure of abortion?

I think that is a really important point when dealing with almost the entire submission of the World Federation of Doctors Who Respect Human Life, because to be accused of not knowing something that is in fact wrong and that has been disproved by a fellow member of the panel today in relation to medical referrals and techniques I think needs to go on record.

Dr Lynch—Can I respond to your question?

Dr van Gend—Can I respond to that?

Senator STOTT DESPOJA—Absolutely.

Dr van Gend—That is called a self-referral. You can have a doctor who in a sense takes responsibility for the assessment of that patient, so it is true that a person can go to the doctor at a clinic and have a medical assessment—we hope. We hope the medical assessor—

Senator STOTT DESPOJA—Women can self-refer for abortion.

Dr van Gend—Yes, that is right, but it is the medical doctor who takes responsibility for the assessment.

Senator STOTT DESPOJA—The legalities.

Dr van Gend—What the bill requires is that any counselling organisation which is to receive funding or advertising rights must say they will refer for abortion, and that is the—

Senator MOORE—It does not say that.

Senator STOTT DESPOJA—No. Let's go through this.

Dr van Gend—I would love for you to clarify that.

Senator STOTT DESPOJA—That is good. Let's go to the section that says that, please. Could you highlight that for my benefit, because it is certainly not in the bill before me. Which part of the bill states that funding is contingent upon the requirement of referral?

Dr van Gend—It centres on the definition of 'non-directive'. Non-directive counselling means a service which—blah, blah—'will provide referrals to termination of pregnancy services'.

Senator STOTT DESPOJA—Are you suggesting that you can only get money if you satisfy that definition?

Dr van Gend—There is the provision that they will not be allowed to advertise in the 24-hour health and help pages unless they are a non-directive service which will refer for abortion.

Senator STOTT DESPOJA—That is section 7. There is no disagreement with that. I want to return to your other comments, because section 7—

Dr van Gend—So you agree with that point, that they cannot advertise in the emergency pages—

Senator STOTT DESPOJA—Yes, absolutely.

Dr van Gend—which is a key advertising source for their clientele?

Senator STOTT DESPOJA—I have no dispute with your interpretation of section 7, but you have made a number of other statements here today and in your submission—and you repeated them just then too, as my colleagues can attest—that funding would be affected. I want you to show me the section of the bill that deals with 'starving' of funding for pregnancy counselling services. What part of this bill says that?

Dr van Gend—Can you give me a minute and I will find it, because that is what I understand by the bill.

Senator STOTT DESPOJA—I certainly can.

CHAIR—Dr Lynch can answer the question in the meantime. She was about to answer earlier.

Dr Lynch—I wanted to make a distinction. You are differentiating between self-referral and a doctor's referral, whereas in outlining my concerns with it I am differentiating between the counsellor referring and whatever other form of referral there is.

Senator STOTT DESPOJA—I understand that.

Dr Lynch—I have a big problem with a counsellor referring someone, just as I would have if I were sending someone to an organisation that I was going to financially benefit from or if there was a sense that the conversation that we were having was going to have a direction at the end of it. I have a big problem with that.

Senator STOTT DESPOJA—And, please, understand I do take your point. In responding to Senator Humphries's point and, indeed, in making these broader points to the committee, you mentioned the legal status in Queensland in relation to the issue of referral. I guess that is what I was picking up on, but not to the exclusion of your other points—I understand that.

Dr Lynch—I am not actually sure if, within an abortion service in Queensland, there would be that internal referral—whether one doctor is actually doing the referral or the assessment for informed consent within the abortion clinics there. But I am deeply concerned by the fact that, right there, there is a financial imperative for the woman who is turning up at the door.

Senator STOTT DESPOJA—Certainly, I will not go down the path of financial imperative—to use that terminology—but, on the issue of services where money changes hands or where money is involved, is there something I have not picked up? I would have thought the Trade Practices Act covered those abortion services. Do you think they are not covered? I am just trying to get a sense of the comments in your opening statement, which made it sound like they were somehow unregulated in the area of misleading advertising—because that is the issue of the bill; not pregnancy counselling standards, as much as I and others have a strong view on that. I take Ms Tankard Reist's point on those issues particularly to heart because I think it is a relevant related issue. I just want to get to the core of—

Dr Lynch—I do not know enough about the Trade Practices Act, but my experience in general practice is that those services are coercing women.

Senator STOTT DESPOJA—As a general practitioner dealing with those services, are they not regulated in other ways—for example, through the law dealing with medical boards? Are you saying the complaint mechanisms are not satisfactory? I can take on board a debate on the adequacy or inadequacy of those services, but I want to make sure there is not a legal vacuum that somehow exists.

Dr Lynch—My feeling is that this is an inquiry into transparent advertising and notification of pregnancy counselling services, so, as a non-legally trained person, I would be expecting that someone who is inquiring into those things would have looked into the pregnancy counselling services that are provided by people who are commercially profiting from the area as well.

Senator STOTT DESPOJA—Yes, and I can assure you I have looked into it, because the Trade Practices Act would of course apply to any business or service that deals with money. It does not apply to pregnancy counselling services or others in the sector that are non-profit. What I wanted with the bill was to ensure that there is transparency of advertising so that it is not lawful to engage in misleading and deceptive advertising. I understand from the opening comments that, even though you do not support the bill, you do support that principle.

Dr Lynch—Absolutely. My feeling in that is that the phrase 'does not refer for abortion' is a politically polarised phrase—we all know that. For that to be insisted to be in advertising is politicising what I see as a medical or community service to women in crisis pregnancy. I actually think it increases the misleading nature of advertising rather than decreases it.

Senator STOTT DESPOJA—So you think putting additional information about whether a service does or does not provide referrals into an advertisement makes things worse.

Dr Lynch—I have seen in my own phone book the use of the phrase 'providing alternatives to abortion', and I see that nothing needs to be added to that phrase for clarity. A lay woman approaching the phone book has to navigate her way through large ads for abortion services in order to find the two- to four-line ads for anything other than that. Then, if she finds these two to four lines, they do actually clearly say what they are doing. I see that phrase 'does not refer for abortion' as a political catchphrase almost that politicises these groups of women who support women in crisis pregnancy rather than adds to what you are trying to achieve in transparency. Anything that increases the politicisation of this debate is divisive and unhelpful, I think.

Senator STOTT DESPOJA—Thank you for that. I think the advertisement you use as an example is interesting. There are examples of advertisements that are perhaps not even as arguably detailed as that. When you look through the book, you see 'Distressed, pregnant, seeking advice?' Surely we can acknowledge that on both sides of the debate there is this issue. I am not sure which organisations they are, and I do not want to reflect on them. In the *Yellow Pages* there is this advertisement:

Are you pregnant? Alone? Need someone to talk to? Scared? Confused? Needing help? For 24 hour assistance phone ...

I wonder whether you think that conveys whether or not all options are necessarily included. Again, allowing for a different interpretation of 'all options counselling', I have this question: do you think, if they do not refer for terminations, women ringing that hotline have a right to know that before they call? How does it hurt to have that specific detail?

Dr Lynch—First of all, I do not think it is the right of any counselling organisation to refer someone to have an abortion. The role of the counsellor, as I would see it, is to allow that woman to say what she feels without the pressure of the other people in her life who are pushing her around.

Senator STOTT DESPOJA—Can they refer for adoption services or would that not be the right of a counselling service?

Dr Lynch—Providing information and support and the freedom to do so is the point. There is something about abortion that is different from some advice about adoption, about where to find the Queensland section of adoption or about which website to look at. It is very different from putting them into the hands of someone who is going to do a procedure on them, which is what I think you are requiring a counsellor to do.

Senator STOTT DESPOJA—No. I am saying to refer for more information. My definition of referral does not necessarily mean, even in this case, adoption or termination. I want to know what happens if a woman picks up the phone and says: 'I want information on adoption services. Will you refer me?'

Dr Lynch—That is a very different thing. Perhaps there needs to be some clarification of your word 'refer', because there is a very medical meaning for that word. It means me passing over the care of this person into your hands to continue to do what you are going to do with them in your area of expertise.

Senator STOTT DESPOJA—I am happy to look at those definitional issues, because it seems that a lot of people have—

Dr Lynch—I think, if it is about information, nobody would have a problem with giving information.

Senator STOTT DESPOJA—Do you mean referring to an adoption service? Do you mean referral in that context? The word 'referral' I know may sound to some people—and, obviously, you are a doctor—like it has a medical overtone.

Dr Lynch—It has a power overtone to it, which is: 'I have the information and I'm giving it to you. My position of respect is being used to give this information I am giving to you some more credit.' I do not think any of those things requires that. We are talking about women who are very savvy. We can look up the internet. We can check things out ourselves. I think there is a level of paternalism in the including of those words that is not required. Women are able to assess things well, at least in my experience. Their whole process of coming to seek medical help is discerning whether they can trust the person they are with. Only then do they speak. Only then do they reveal what they need.

Senator STOTT DESPOJA—But there are some services that, if I ring, will refer me—and you have put this on record—for a termination. There are some services—and we have spoken to them—that do not, including yesterday to Pregnancy Counselling Australia. They

were very up front in saying, 'We never refer for an abortion.' There are some pregnancy counselling services that do and some that do not. What is wrong with putting it in the ad?

Dr Lynch—I think it is something to do with your definition—it being included as a definition of 'non-directional'. I think there is a clear psychological definition of what 'non-directional' is and it does not include the word 'refer'. There is something implied in the forming of that into a bill which gives it more credibility than I think it should have.

Senator STOTT DESPOJA—Isn't whether or not someone provides a referral for anything more implied if it is not in black and white in the ad? Whether you come up with a definition that is more preferable, I do not understand why people do not want to say, up front, that they do not provide a particular service. If you do not want to pursue that point, Dr Lynch, that is okay; I will come back to Dr van Gend, who has had some time to look into the bill.

Dr Lynch—I did not quite understand the question.

Senator STOTT DESPOJA—You are saying that there are implications that come with this definition or that it may be laid out in a particular way. But, getting away from the definition, and even getting away from the bill, if a group like Children by Choice, who have given evidence today, up front put as much information in their ad as they can—for instance, 'We provide all options and counselling,' or, 'We provide referrals for terminations,' or, 'We provide information on adoption,' or whatever—what about an organisation stating up front on whatever spectrum, 'We don't provide referrals for termination'? I want to know why that is bad. I want to know why it is bad when a women gets to the phone book and an ad says, 'Caring, immediate, confidential,' and 'By the way, we are a pro choice organisation,' or 'We do not refer for abortion,' or 'We do provide referrals for termination.' Why is that information bad?

Dr Lynch—You said 'putting aside the bill', but I do not think we actually can in this setting. This setting is examining the bill, and the bill is saying that an organisation that gives non-directional counselling has to have these words around it whether it is or is not non-directional.

Senator STOTT DESPOJA—So it should not be in the ad?

Dr Lynch—Whether somebody refers?

Senator STOTT DESPOJA—Whether somebody refers for a termination or not should not be in the ad.

Dr Lynch—In my opinion it is not a requirement of whether someone is non-directional or not, and that is my understanding of what this bill is about.

Dr van Gend—I want to add to that comment, because I think that is a really hard one. There are actually good reasons from the counselling services' point of view why you do not want a little slogan underneath your number. It is not in order to be deceptive or to have a lack of transparency; it really is not. If you would grant for a moment that the service they provide to women genuinely is helpful—just for the sake of argument imagine that the service they provide really is helpful as counselling and emotional support and as education about her options, which is what these services that do not refer for abortion do; grant for the sake of

argument that they really do provide information, support and care—one can therefore say that that is a good thing for that woman. Whether it will be enough for her we do not know, but it is something. Therefore it is not in that woman's interest to be put off unfairly—

Senator STOTT DESPOJA—Why would she be put off?

Dr van Gend—If you have a slogan under your phone number which says, 'We do not refer for abortion,' why is that there? It sounds a little obsessive or monomaniac. Why is there this particular focus on, 'We won't refer for abortion'? It is as though they are walking around wearing a placard saying, 'We won't refer for abortion.' That is not their business. Frankly, that is outside their sphere of activity. They will deal with the needs of the woman, and in the context of their brochures, for instance, will happily say this in their midst. An example is the service I referred to, which had halfway down the second page about our counselling service that it is 'free, professional, confidential and does not include referrals for abortion'. But that is in context. This is not an in-your-face first impression.

Senator STOTT DESPOJA—No, but it is specific and it is up front and it is laudable.

Dr van Gend—But it is beautiful because it is in the brochure, and I support that.

Senator STOTT DESPOJA—Yes, it is beautiful.

Dr van Gend—My point is that it is so different. Of course I support that, because I helped draft it.

Senator STOTT DESPOJA—I know you do. But why is it different from the ad?

Dr van Gend—It is so different from having it in the phone book. If you know nothing about an organisation—you have not looked at their brochure, you have not looked at their website and you have not talked to a human being and found that they are actually warm and receptive—that is quite different from just getting a statement that says: 'Here's our phone number. We do not refer for abortion.' That is cold, in your face and off-putting.

Senator STOTT DESPOJA—It might be a bit so if it were simply that, but what if it were all those things that you have described? Say it says, 'We provide information on these options. These options will give you information about abortion. We will give you options on this, this and this. By the way, we do not refer for terminations.'

Dr van Gend—That would be lovely.

Senator STOTT DESPOJA—You could put in your ad whatever you liked. That is recognition of not putting off women. I am sure there will be some women who will say, 'I'm interested in all these issues but at the end of the day I would like that third option of a referral, not just to additional support if I keep the child, and not just a referral possibly to an adoption agency if I choose to give up my child. It would be a referral for more information on abortion.'

Dr van Gend—I would have supported that, but I cannot see that it is practical. How are you going to have a little essay in the White Pages entry?

Senator STOTT DESPOJA—Have you see some of these ads?

Dr van Gend—You cannot get a meaningful context in a White Pages entry; it is impractical.

Senator STOTT DESPOJA—That is an interesting point which I will not go into, because I know the chair will have a kitten if I keep pursuing this. I appreciate your points and I hope we can table that leaflet because I think that is hugely beneficial to the committee. Now, Dr van Gend, let us get back to the nitty-gritty of the bill. I want you to show me where I am starving people of funds.

Dr van Gend—This is the part of the bill that you want. It is section 10A. It says a counselling service 'is ineligible to receive a payment' unless 'it first discloses' whether it is a non-directive counselling service or—and the important thing is the word 'or'—a 'service which does not provide referrals' for abortion. The problem is that a service like the one that I am thinking of cannot answer that question because they are a non-directive counselling service. They are professionals from top to bottom and they work under the counselling model of non-directive counselling.

Senator STOTT DESPOJA—But they are only obliged to disclose that.

Dr van Gend—But you have said that they are not a non-directive service, because your definition requires them to refer for abortion. So, under your definition—

Senator STOTT DESPOJA—But all they have to do is be up front about that. They do not lose funding.

Dr van Gend—But they cannot answer the question and therefore they cannot get their grant.

Senator STOTT DESPOJA—No, they just have to disclose that fact. If they failed to disclose, that may be a different issue—and you and I might not agree on the next bit.

Dr van Gend—If you change your definition of 'non-directive', then I could probably agree with you but your definition—as you agree—says 'non-directive' means blah, blah including that they will refer for abortion when requested. Are we agreed so far?

Senator STOTT DESPOJA—No, because the issue is that their access to money relates to disclosure. At the risk of having what could potentially become a debate again, I want to refer you to an interpretation—and Mr McAuley has come back into the room. He is the legal adviser to the Right to Life Association. This morning I did not necessarily share the same philosophical positions with him but when we did interpret this section I think we reached an agreement—this is regardless of definition even if you changed the definition so that an organisation does or does not fulfil the definition, so it is whether they do or not—that all they are obliged to do is disclose where they sit in relation to that definition. You have just got to say, 'Hey, I'm non-directive as per this definition' or it could be a completely different definition that the committee comes up with. But it is still a requirement to disclose that in dealing with any funding from the Commonwealth. It is about disclosure and being up front. It is certainly not about preventing people accessing money if they may have a different perspective or a different definition from the one that I may prefer.

Dr van Gend—I am genuinely glad to hear that—I really am—and I am glad that is one of the three concerns that we can perhaps take off the list. But that is only if you really do alter that definition so that an organisation such as this can answer the question. At the moment

they cannot answer that question—and therefore they cannot get funding—because they are a non-directive service.

Senator STOTT DESPOJA—But they can. Whether they fit the definition or not, they can get funding. They just have to say whether or not they fulfil the definition.

Senator MOORE—They say they may.

Senator STOTT DESPOJA—But I think we will agree to disagree, Dr van Gend.

Dr van Gend—If there is enough flexibility in that section, then I can accept that you can squeeze in there a group which will tell you, 'We do not refer for abortion but we are non directive.' Will you accept that? If they tell you, 'We do not refer for abortion but we are a non-directive service,' can you accept that?

Senator STOTT DESPOJA—That will get back to whatever the definition becomes in law, and I take your point. But no-one loses funding.

Dr van Gend—So even your definition in law will not exclude them?

Senator STOTT DESPOJA—That is right.

Dr van Gend—That is very nice. But there are two left though, because you are still excluding from the emergency page—

Senator STOTT DESPOJA—I know that. But we may actually get progress on the next one, section 7.

Dr van Gend—Why are you excluding a group like this from their core advertising page, the emergency page?

Senator STOTT DESPOJA—I am afraid you do not get this process: I get to ask the questions. Nonetheless, I will answer as best I can or at least move a step beyond that. The committee has dealt with this issue in some of the discussions, and clearly this is a sticking point for a number of organisations who feel that they would be excluded because they would fail to meet the definition of 'non-directive', as per the bill. I am happy with my definition of 'non-directive', but that is not the point. This is what the committee process is about, and we can talk about it. In the case of the White Pages emergency listing, would you consider that, instead of excluding those organisations that do not fulfil the definition of 'advertising', they should simply be up front and transparent in the services they do or do not provide, say, in relation to terminations? You may want to go away and think about that. Rather than being considered to be an organisation that by my definition—and I have used the one that is in the bill—does not qualify, should they just be up front if they want to advertise in that section? It does not necessarily solve all the issues I have, but I am just putting that to you as one of the compromises that have been put forward to the committee for debate.

Dr van Gend—That is also very good to hear.

Senator STOTT DESPOJA—This is getting scary.

Dr van Gend—This is great, but it still has the problem that it is an artificial and in-your-face approach compared to the warm context of a well-designed brochure or a two-minute discussion or even, as I thought on the way down, an answering message when you first ring

the service that gives a 30-second spiel about the service and says that, if you want to continue, you should push No. 1 now.

Senator STOTT DESPOJA—That is actually a good idea that we should take on board.

Dr van Gend—We are all happy with the idea of openness and honesty—there is no problem with that—but we do not want ways of being transparent which in fact put off people who otherwise would have talked to the counsellor and benefited from the counsellor. We do not want them to miss out on the benefit that this organisation, for instance, has given for 30 years because they have been put off by an appearance of harshness which does not exist or by an appearance of monomania about whether or not we refer which does not exist. Do you see my point? It is purely out of concern that women get the good things of the service without being put off by a slightly artificial and unfair focus on the statement 'We do not refer for abortion'.

Senator STOTT DESPOJA—I think we will leave it there. The chair is starting to get concerned about the level of consensus breaking out between us, so I think it is time to move on.

Dr van Gend—Thank you, Senator, it has been an absolute pleasure.

Senator STOTT DESPOJA—I knew we would work out some stuff.

Senator MOORE—Dr van Gend, what does the 30-second message say?

Dr van Gend—I only thought about that on the train on the way here. This is purely off the top of my head but for your consideration: it could be something like when you ring the bank or some other service and they tell you a bit about the service and that if you want something in particular you should press a certain number. Basically, you would have a message on the phone that welcomes you to the service, has nice music playing, tells you about the service and then runs through a little design of their statement. That is very private for the person, because they are not talking to anyone yet, but it allows them that initial look-see that they would get from a brochure or from a website and it is immediate, on the spot, when they ring up. To me, that is beautiful, as long as the services get the technology that enables them to do it. It could be part of the guidelines for the federal funding for all I know. To me, that would seem to be a way of achieving the transparency and certainty, while not really detracting from that initial impact.

Senator MOORE—Are we talking specifically about the service run by Pregnancy Counselling? All the way through your submission and in your oral submission you kept talking about 'the service'. I cannot read that far across. Which service is it?

Dr van Gend—The trouble is that I do not talk for them, I just mention them. But I am sure they would not mind my tabling it as an example. I actually mention it in my submission. I have two in my office—

Senator MOORE—Yes, but you do not mention the name of the service.

Dr van Gend—No, but you can certainly have them. One was Pregnancy Counselling Link, and one was Centacare Toowoomba's pregnancy counselling.

Senator MOORE—Fabulous. I just wanted to know.

Dr van Gend—I am sure you are most welcome, because these are their public brochures. But in both of them, they start off with saying: 'Hey, we understand. We know it's tough'—the usual context, just like doctors have to. But the point is, in the midst of it, softly and appropriately, they say, 'And we don't refer for abortion.' At that point, if people feel strongly that they need to shop elsewhere, they will, but if they think, 'These guys are okay, these ladies are fine,' then they will give them a ring. I like that, I admire it, but to me it is different to having a one-liner under the White Pages saying, 'Our number is this, we don't refer for abortion.' Lifeline does not have a one-liner saying, 'Our number is this, we don't assist with suicide.' It is off the point; it is not necessary; it is not their core message, if you know what I mean.

Senator MOORE—I was with you there for a while.

Ms Tankard Reist—I would hate this lovely feeling that we all have here at the moment to break down, but I am going to disagree with the good doctor. From my experience of speaking with women in situations where they are not supported—they are being pressured, they are being coerced, they are perhaps being threatened with loss of their work, they are being threatened by the loss of their education, possibly having to leave their school—I think they need a human voice at the end of that line.

Senator MOORE—That is where I was going.

Dr van Gend—Yes, that is a problem.

Ms Tankard Reist—I do not like the idea of them getting a recorded message at all. I do not think they will pursue that, I think they will go somewhere else. At this time of great difficulty and great need, she needs a human voice, so I am not so big on the 30-second prerecorded message. She is not phoning a bank, she is phoning somewhere where she needs to talk to another human being who is compassionate and empathetic and able to give her the assistance that she needs. I do not think she has time to wait for the message and wait to talk to someone. I think she might hang up and go somewhere else, where she will find a real person at the other end of the line.

Dr Lynch—I totally agree with that.

Dr van Gend—I defer to the more refined instincts of my colleagues.

Dr Lynch—In my work, I meet these women. The women in these situations are very vulnerable, and so the sense is that they just need one other person to agree with them on how they are feeling against the people around them. There is a sense of really needing to hear somebody else who actually cares about what they are feeling at the time of making the phone call, because often it is a moment of crisis when they make the phone call.

The whole area of referral really bothers me, that this is becoming almost enshrined as part of pregnancy care, whether or not referral happens. Some thinkers in this area would say that non-referral for abortion is an important part of crisis pregnancy counselling, and they believe that this should be standard practice for any pregnancy counselling situations, no matter what the philosophical basis of the counsellor is. I think that provides that necessary step of separation and time that a woman requires when she is thinking through these things. The

issue is not so much around what is in the ad, but what process is happening to her once she has made that call. Is there a separation between who she is talking to and the outcome?

Senator MOORE—The discussion we had with a number of providers yesterday was along the lines of the difference between decision counselling, where someone is seeking information, not quite knowing where they want to go, and the other form of information sharing, where they already know where they want to go, and there is a clear delineation. I think it was generally agreed that there is a minimum of two groups, there may be many more. But the concern in this legislation is that someone who is genuinely seeking information, who has not made up their mind, can get absolute security that the person with whom they speak will give them information on all their options and not preclude certain options. In that sense, one of the things that came out yesterday and again today is the value added nature of the verb 'to refer'.

I am interested in both, because both doctors are involved in counselling. If a woman is seeking information about termination, what do you tell her? It could well be that you may not be referring in the medical sense—and I accept that you are not, because it is not a medical referral—but it is to ensure open access to non-judgmental, non-directional information. I am interested in two practitioners who are very interested in this area, so I know what is available for my own state. What do you say to a woman who calls your services or comes to see you, and wants to know about termination?

Dr Lynch—I think my situation as a general practitioner is very different from someone ringing in on a phone line.

Senator MOORE—I want both then. You have given evidence both as a practitioner and also in talking about general specialist counselling. From the committee's point of view, I am interested from both perspectives. I know Women's Forum is not a counselling service but the submission referred to counselling from the perspective of the opinion of Women's Forum.

Dr Lynch—Do you want me to comment on whether or not a pregnancy counselling service would use that word 'refer'? We are saying that enshrined in the word 'non-directional' is that information will be given.

Senator MOORE—You obviously do not provide termination services?

Dr Lynch—No.

Senator MOORE—So if a woman wanted that information, what would she be told?

Dr Lynch—In my practice?

Senator MOORE—Yes.

Dr Lynch—The relationship that I have with someone within my practice is very different from the relationship I have with someone who is calling me cold on a phone line.

Senator MOORE—I have a view that doctors should be covered by this as well, but it is not in the legislation. We will go to the counselling service, because that is what this legislation refers to. A counselling service is promoting its service as a pregnancy counselling service. I am a woman who wants information, you are near to listen to et cetera, and I say,

'Can you tell me where I would be able to get a termination. Can you tell me about termination. I really want to know about it.' What information would you share?

Dr Lynch—I do not think I am qualified to answer that. I am involved in a small way in the training of women who are involved in one of the local pregnancy counselling services in my area but not in the area of counselling. That is done by people more skilled than I am. I am merely teaching in the area of reproduction and biology and some of the things I know from a medical perspective. So I do not know what they are taught to say.

Senator MOORE—Or what they are told?

Dr Lynch—All I can say is that they are controlled. For example, some of the services are under the practices of social work. I do not know what you would call the organisation, but I am making sure they are controlled by those. I am sorry I cannot answer that question. I do not know for sure what a counsellor would say.

Senator MOORE—Dr van Gend, I know the two organisations that you work with.

Dr van Gend—Again, I cannot talk on their current policy, but it is certainly the case that here there is a sort of division of labour, a division of responsibility. They would give all information, as best they can. They may not be able to give detailed medical risks and psychological consequences. They will do what they can, but they would give whatever information the person wanted. You are really guided by what women want and how far they want to inquire into any of these options. But when it comes to the point of, 'Will you now send me a note or will you now tell me where to go,' if they are a counselling service which is constituted not to facilitate abortion, at that point they say, 'That's beyond what we can do. We hope that we've given you understanding and space to know yourself and get the information that you need. That is something our organisation cannot do.'I think people are reasonable and understand that that is the limit.

They can also point out, very importantly, that because they are a counselling service, at this point they are getting into medical territory. They can say, 'Talk with your doctor about further medical information,' and so on. Obviously, as is only reasonable, people know that they can simply dial this clinic directly if they want to. People are not necessarily unaware of that. But, as far as the service goes, they have to say, 'This is as far as we can go. After this, talk to your doctor.'

Senator MOORE—What about adoption?

Dr van Gend—I guess they would have information from—

Senator MOORE—If you are listening to the person and they say, 'I may want to keep the child. Where do I find out more about adoption?'

Dr van Gend—So they have given all the information they have? They may have brochures from the government?

Senator MOORE—Yes.

Dr van Gend—At that point, they would probably have an information package of some sort as to who is the authority on adoption.

Senator MOORE—So they do refer for adoption?

Dr van Gend—As far as further information services are concerned, there might be a website, there might be brochures with follow-up contact numbers for the department of family services. I am not sure where they would direct them. They would simply go to that next higher level where people can go through the process of inquiring of the department itself, I presume.

Senator MOORE—So the counsellors are prepared to provide a further number or a further service or a further website for someone to seek further information on that option?

Dr van Gend—Because it is not a medical territory they are trespassing on at that point. You are trying to say, 'If you give a number to family services, why don't you give a number to the clinic?' But they are different.

Senator MOORE—No.

Dr van Gend—Family services are a further information source. The clinic is a medical field of assessment and advice, and the right thing—

Senator MOORE—What about if I want to keep the baby?

Dr van Gend—for the counselling service to do is to say, 'That is the limit of our authority and expertise. Now you go to your doctor and talk about the medical side of procedures.'

Senator MOORE—So if I am interested in keeping the child, you would refer to the doctor—you would say, 'Go and see your doctor.' Is that right?

Dr van Gend—Very much, because they are pregnant and they need antenatal care.

Senator MOORE—So you would give a medical referral if they are wanting to keep the child?

Dr van Gend—You would not give a medical referral at all; you would say—

Senator MOORE—But you are saying, 'Go to your doctor.'

Dr van Gend—'Have you seen your doctor yet about it?'

Senator MOORE—And you see no difference? You see that the three options that someone has within a time frame if they are pregnant and they turn to one of those two very valuable services that are operating in Queensland, that there is a further step of support provided for keeping the child and all the complications of that with Centrelink—and I know that they give information on that, because I have referred people there—and adoption, but the precluding point is if someone wants to have further information about termination?

Dr van Gend—Yes.

Senator MOORE—That is the precluding point?

Dr van Gend—Yes.

Senator MOORE—Our point is that people should know that before they contact you: that they will get fulsome information on two options—warmth, care, knowledge—but on the third option they will not.

Dr van Gend—They will get information, certainly. They will get all the information that they need or that they want, but they will not get facilitation of the process. The government,

if it is funding counselling services, is not there to oil the wheels of the abortion industry. It does not need oiling and the government is not there to do it. The government should have a preferential option for pregnancy support rather than abortion. It is as simple as that. My understanding of the policy is that we came at the end of the RU486 debate to a statement in your report which said that there seems to be a consensus that there are too many abortions and that the public do not want access limited by law but they do want all means of alternative support pursued. That is why we come to the pregnancy counselling line, because it, as the media release from the government said, is a pregnancy support helpline.

Senator MOORE—It is a different thing, Doctor.

Dr van Gend—But the concept is that we are talking about finding ways of supporting, not oiling the wheels of the abortion industry.

Senator MOORE—You seem to have rapidly turned around. To make one comment before we move on, I am just concerned, Dr van Gend, about some of the comments in your public submission that you made about the role of government and the role of people putting forward legislation. They were very direct and I found them, even though they were not directed specifically towards me, quite offensive. I feel it is important to have that on the record. Some of the comments made about misuse of the process and a degradation of parliament were offensive. You made such very strong statements in your submission—and I know that is how you feel—I feel I need to make some response on behalf of someone on the committee that I found that very difficult to cope with.

Dr van Gend—Thank you, but again that was how I felt based on the understanding I had. The ground has shifted since then. It appears that services that do not refer for abortion will still be able to get money. It appears that they will not be excluded from their key advertising site. I am delighted to hear that. But if they had been excluded from money and had been excluded from the key advertising site, I thought that was an abuse—it was a suppression of a group on the basis that they did not refer for abortion. That was why I took offence, so we are mutually offended. But not so much anymore, I am glad to say.

CHAIR—That is good.

Senator ADAMS—Take the issue that has been raised of someone having an abortion and getting breast cancer. Breast cancer is something I am very interested in. Have you got any evidence to state at all in your literature that abortion does cause breast cancer?

Dr van Gend—I find this area troubling, because I think it needs to be devoid of any politicisation. This is far too important a question to be debated by recognisable protagonists of abortion or recognisable opponents of abortion. They should not be part of it, which is why I have said nothing about the matter.

Senator ADAMS—I realise that. I am just asking about it.

Dr van Gend—I think it is terribly important. I think that clinically it is, on balance of probability, going to turn out in years to come that it is a risk factor. For instance, I believe that only this year the World Health Organisation officially declared that the oral contraceptive pill is a carcinogen—that is, a cancer-causing drug. It has been for many years wondering whether it is. It takes years to establish these connections. At present various

learned bodies have said, no, they do not think the evidence is there. Twenty-seven of the 34 published journal studies say there is a link. It is way beyond my capacity to analyse these studies—so I do not know. But it seems immensely plausible that there will be a link found between terminating a pregnancy during the vulnerable stage of breast development and subsequent cancer. I hope there is not, but there may well be. My medical instincts say that will come to pass. But at the present time we have to defer to the learned bodies, the epidemiologists, and I just hope that they are not being influenced by the charged nature of the abortion debate. We have reason to fear that. Take the recently published article by a Christchurch body which found a significant increase in the mental health consequences of abortion.

Senator ADAMS—Yes, but that was a cohort of 42.

Dr van Gend—Yes. But I am not talking about the content. All I am saying is that he had great difficulty getting a publisher for that, which surprised him because he had not had a similar difficulty before. So I fear that there is political influence even on what should be clinically cold, objective data. From my point of view, the breast cancer-abortion question is extremely important and should be researched with the utmost objectivity. I suspect there will be a link when the dust settles but at this point we cannot say.

Senator ADAMS—I have got something here from the World Health Organisation stating that induced abortion does not increase breast cancer risk, yet yesterday we were given a great stack of evidence that was a lot older—from 1972 to about 1988—on the issue. It is just that it has been raised and a number of women have said that when they have rung up and been counselled they have been told that if they have an abortion they will get breast cancer.

Dr van Gend—You cannot make a link like that, because it is one—

Senator ADAMS—So I thought that with two medicos here I would ask the question.

Dr van Gend—Yes. I think it is something that should be borne in mind as an unsettled question. If you have 23 of the 37 published studies saying there is a link—and some of them say there is a quite powerful link—you have to bear that in mind as something that may be clarified in the future. It is no comfort 10 years later to find that the learned bodies now say there is a link, whereas 10 years ago they said there was not a link.

Senator ADAMS—The thing that is worrying me is the fact that when women are being counselled this is being used as a deterrent as to one of the options: that if you have a termination you are going to get breast cancer. I do not like that if there is not enough evidence to say that.

Dr van Gend—I would agree that if the evidence is still uncertain—as it is—it should not be portrayed as certain. It should be very much portrayed as a question.

Senator ADAMS—Dr Lynch, do you have anything to add to that?

Dr Lynch—Yes. On that I want to add that there is a lovely balanced review in this document which I am going to table. As it is said here, there is a non-controversial thing that we know, which is that if a woman has a pregnancy early in her life she has some protection from breast cancer. That is well established. I think I learned in medical school that how many babies you have and how early you have them affects your risk of breast cancer. It is not about

'you will or you won't'. It is really about statistical games. But I think women do need to be at least told of that non-controversial fact: that we know that it has some level of protection. We do not fully know how or why but, based on population studies, that knowledge is there.

I would feel, as a medical practitioner, that I was not fully informing a woman in her right to know about this issue. Because I assume it is general community knowledge, I am actually not letting a woman have the right to the knowledge we have.

Senator WEBBER—Senator Moore has some other study about linkages with breast cancer which I have just asked her to follow up, but that is not relevant to this debate.

Senator STOTT DESPOJA—Maybe it is.

Senator WEBBER—No, it is not. I return to the bill about transparency of advertising. I have my second favourite edition of the *Yellow Pages* here, the Sydney edition, and I want to return to this issue about what people should or should not have to put in their ads and whether it is cold or whether it is not. I have read out a couple of ads to other witnesses. Pregnancy Help Sydney's ad says, 'Pre- and post-abortion counselling', and gives a phone number. Another ad says, 'Pregnancy support line: free 24-hour counselling service', and there is a phone number. Another says: 'Are you pregnant? Alone? Needing help? Need someone to talk to? Confused? Scared? Phone the pregnancy help line,' and gives a phone number. We have discussed these ads before. Pregnancy Counselling Australia's previous ad, particularly in the *Yellow Pages* in Melbourne, said, 'Pregnant and upset?' and gave their name and phone number. It now says, 'Pregnancy Counselling Australia: pregnancy counselling, alternatives to abortion, post-abortion help,' and their phone number.

The evidence we received when talking to them and some of the evidence we got this morning was that the ads I have read out of the Sydney pages, if this bill goes through, would not comply. But they then say that, if they did have to put in there that they do not refer to a termination service, there would be a decrease in phone calls. It seems to me that that is actually part of the problem, and it is not transparent. If I were considering having an abortion, which luckily I am not, and I saw an ad that said 'pre-abortion counselling' I would presume that they would counsel me, give me my three options and, if I chose termination as an option, they would support that. If that service says then, 'We will not refer for termination,'—they would be forced to do that in the ad—and the number of phone calls goes down, it seems to me that they have deceived the people who have been ringing them. What is the problem?

Dr van Gend—It depends who has failed to phone up. It may be the people who clearly just want to get access to the abortion service, and that is fine. It will speed their way through if they go to a more direct number. But it is the other people I am concerned about, those who are not ringing—and they are not ringing because they think: 'This sounds like it must be a bit of a harsh and obsessive group. They're putting in their ad that they won't refer for abortion, as if that's all they're going to talk about. I don't really like the sound of that.' Instead of that, they might have just rung up and tested the waters themselves and found that in fact there was a lot to gain from it. My concern is that people will not avail themselves of something very good and very supportive if they are unnecessarily put off by the appearance of harshness, the

appearance of obsession with one single idea. That, to me, is not in the interests of the women who are going to be calling.

Senator WEBBER—So a phrase like 'alternatives to abortion' is harsh, is it—harsh and off-putting?

Dr van Gend—No. I like that. I think that is a very wise phrase.

Senator WEBBER—Because I do not think the preposed legislation says the exact form of words you have to use.

Dr van Gend—It is pretty close. It says, 'We do not refer—

Senator STOTT DESPOJA—It says, 'or a like statement'.

Dr van Gend—Or a like phrase, yes.

Senator WEBBER—I am a reasonably open-minded person—perhaps becoming less so the longer I am in the Senate—and it may well be that I will recommend an amendment that deals with that, because recommending amendments to potential legislation is part of this process as well. The flip side of that is: if there is a counselling service that people feel is very closely associated with assisting people who are seeking terminations, if I take the logic of what you are saying, they should be able to just say, 'We're a pregnancy counselling service.' Everyone should be able to say just that.

Dr van Gend—If they provide proper pregnancy counselling, good luck to them. But if they do not they should not advertise as a pregnancy counselling service.

Senator WEBBER—Indeed.

Dr van Gend—If they are prepared to provide in-depth, non-directive counselling on all the relevant concerns, options and issues—

Senator WEBBER—All three of them.

Dr van Gend—yes—then let them advertise as they will, because they will be doing good for the client. But that is what these other organisations have done for 30 years. They have done good for their client and now they are being threatened with great penalties—

Senator MOORE—No.

Senator WEBBER—No.

Dr van Gend—Oh! Do you mean the 10,000 penalty units have gone as well?

Senator WEBBER—No. I thought we had—

Senator STOTT DESPOJA—No. Dr van Gend, we had made such progress.

Senator WEBBER—Yes, and it has gone now. I tell you: you almost had me there but you have just lost me.

CHAIR—We have made progress towards a coffee break.

Senator STOTT DESPOJA—I raise a point of order, Chair. It needs to be put on the record very clearly that the penalty provisions relate to misleading and deceptive advertising, as they would under the Trade Practices Act. People's funding is not threatened unless they

are guilty of that offence. I want that on record. Dr van Gend, we had gone so far and I do not want to ruin that relationship, so I just want that put on record.

CHAIR—Okay. That is not a point of order, but do go on Senator Webber.

Senator STOTT DESPOJA—That was from the Guy Barnett school of points of order, I am sorry.

Senator WEBBER—They have been learning. I have finished with my second favourite book and I am getting a new edition tomorrow, which will be very exciting for the people of Adelaide when I read it. Dr van Gend or Dr Lynch, I am not sure which of you it was, earlier we talked about counselling, and you were talking about the concerns you have about the need to disclose in the ad, because these counselling services start slowly and softly, just as doctors have to. I want to go back to the point Senator Moore was talking about with you. I approach you as an individual medical practitioner because I have an unplanned pregnancy and I want to talk about my options, and you have talked about counselling. We have finished a mental health inquiry and we know that GPs get themselves involved in counselling. In fact it may be the only solution we have to our current mental health problems, because we have a shortage in supply of other practitioners. I have come to you because I have an unplanned pregnancy. We discuss our options and I say I am interested in pursuing termination as the option, what would you individually do, considering that this is a legal option?

Dr van Gend—That is debatable.

Senator WEBBER—It is in my state.

Dr van Gend—In Queensland the relevant common law case says that the state has not abandoned the silent innocence of the unborn—

Senator WEBBER—Okay, sorry, I should not have gone down that path. We did that on RU486.

Dr van Gend—But, as you know, the law is ignored. I am trying to work out what you want in the context of a bill about telephone advertising transparency. If I were an employee of a telephone counselling service I would operate by the psychology model of non-directive counselling, according to that discipline. But if you are asking about a visit to me as a GP—

Senator WEBBER—Yes, or over the phone if I ring you up.

Dr van Gend—I do not do consultations over—

Senator WEBBER—You do not do anything over the phone?

Dr van Gend—Well, I do, but I would not do something that sensitive. It takes me an hour and I cannot do that over the phone. Is that what you want to know? Is that relevant to this inquiry?

Senator WEBBER—Yes, because I want to get through this.

Dr van Gend—Okay, I can only give you the last two or three cases that come to mind. In two of the cases I am thinking of they came in saying, 'I need to get an abortion.' One was a relative stranger and one was someone I had known for some years. You take it and play it by ear. You immediately try to understand where they are at and what they are feeling. You

reflect on that and get on their wavelength and so on. That is the art and that is why it takes an hour.

Senator WEBBER—I am the daughter of two psychologists. I know all about counselling.

Dr van Gend—Granted that that is happening, you have created a space for them to know what they really feel and to understand what their supports might be. Above all, in one case in particular, you have removed the expectation that abortion is the way she should go. They come in thinking, 'We've made a mess, we've got to tidy it up and this is the thing to do.' The art of counselling is to get rid of presuppositions—social expectations, boyfriend expectations, the idea that they cannot cope—like that. You explore all of that. Then they either have discovered strengths in themselves they did not realise they had and they want to go and ponder it further or they have clarified that, no, that is not the way they want to go and they want to go and get an abortion. You do not know until the end. In the last two cases—

Senator WEBBER—I am sorry. I am rushing you because I know Senator Humphries will rush me. That is all.

Dr van Gend—Sorry—it is just a thing that you cannot rush. In these last two cases—in fact, in the last three—they said, 'Well, I didn't really want an abortion.' One of them wanted to consider adoption and then she thought later on, 'No, I'll keep the child.' The other one was in a terrible social situation with a man who was also married. It was very hard. But she figured that they would somehow work it out, and they did and they are now having their second baby.

Senator WEBBER—It is lovely that you are obviously a very supportive and successful counsellor in your role as a GP. But, if I have been through that hour-long conversation with you and I am still of the view that termination is the option for me—

Dr van Gend—You want to know whether I will then organise it.

Senator WEBBER—What do you then do?

Dr van Gend—No, I will not. No. At that point I explain why I have reached my limit. This is me and I am a very rare species, so do not necessarily try and extrapolate this to the wider practice. But you have asked me. At that point, I say, 'Well, that's all I can do.' If they ask, 'Can you organise an abortion?' I say, 'No, I can't.' By this time I have already explained why. I can help them with everything but I cannot take part in ending another human existence. That is my contract with life. I cannot do it.

Senator WEBBER—That is your code and I respect that.

Dr van Gend—But—

Senator WEBBER—As a GP, can you then assist them in accessing that service elsewhere? I am not saying that you personally perform the termination or anything else. Can you point that woman in the right direction of information going to this balanced, fully informed decision that she has come to?

Dr van Gend—I understand your trap and I appreciate it, but the point is this. Firstly, if I had to do the abortion—if it was a medically essential crisis—then I would do it myself. I have helped with ectopic pregnancies. It is not that I am squeamish.

Senator WEBBER—I would never accuse a GP of being squeamish.

Dr van Gend—You have asked me whether I will then refer. That is what you are saying.

Senator WEBBER—Yes.

Dr van Gend—The answer is no, because that would be incoherent. I do not decline to arrange abortion to be difficult. I do it because I do not think we adults can take the lives of our young. It is as simple as that. This is where it comes back to the fundamental point. You can call it a right, but if in fact what you are doing is violating the most fundamental basis of life—which is that we live and let live—it is not a right. At that point I say no. To arrange for someone else to do it would be completely incoherent.

Senator WEBBER—If I am your patient, I go through this and this is the decision I make, I am then left on my own to find something else.

Dr van Gend—No, of course not. You do not know me. They do.

Senator WEBBER—You have just told me you cannot tell them where else to go.

Dr van Gend—Yes. But they are not fools. They know what they can do. I am not trying to trap or trick them. They know full well they can make their own arrangements with the clinic. Everyone knows that. But I am not going to organise it. They need to know that I am the person they can come back to if they want to maintain support and care.

Senator WEBBER—If it is that transparent, if it is that well known, I put it to you that if that was their fully informed decision they would not have to come and see you in the first place.

Dr van Gend—But they want to because I am their doctor, and we have a relationship. After they have gone and had their abortion, they come back to me. Do you understand that?

Senator WEBBER—I understand that. In that case, do you disclose that to them early on in the conversation?

Dr van Gend—Yes, very much so.

Senator WEBBER—Is there a sign that says, 'If this is—'

Dr van Gend—No, because that is back to the in-your-face, cranky, who-is-this-strange-person-who-puts-a-sign-on-the-door situation.

Senator WEBBER—But there are other signs in your surgery that are in your face and cranky about other conditions?

Dr van Gend—No.

Senator WEBBER—It is all rosy? There is no, 'Don't smoke; it will kill you,' or any of those other things? There is none of that?

Dr van Gend—I do not really think that is a good comparison. Do you see, though, that we have a relationship? We are not a counselling service.

Senator WEBBER—Consciously taking up a habit that kills you, I think—

Dr van Gend—I understand the line of inquiry, I fully expected it and I am happy to answer it, but the point is that we have a relationship which we need to maintain—and I do

maintain it with the women. They come back in after they have had it. I cannot think of anyone, but maybe someone has not. Generally they do because the relationship is maintained. They understand and respect why I cannot take part in ending another human life and they work through it, make their decision, do their thing and come back. There is still the respect. Of course, they can go to anyone else—

Senator WEBBER—I am really sorry to cut you off but I know Senator Humphries is going to get very cranky with me and I want Dr Lynch to have the chance to have a say. Without taking as long, Dr Lynch, can you just say, yes, you are the same or, no, you are different.

Dr van Gend—Do not take up counselling, Senator!

Senator WEBBER—I did economics, not psychology.

CHAIR—It shows.

Dr Lynch—My feeling is—and I sense this from Senator Moore's question as well—that you are trying to tell whether or not we are warm towards someone who would choose an abortion.

Senator WEBBER—No.

Dr Lynch—Senator Moore said earlier that there is this distinction—if we are referring for continuing of parenting you will get help and information but you will not get it with abortion. You did mention the word 'warmth'.

Senator MOORE—I do not agree with that.

Senator WEBBER—Dr Lynch, I did not say that and I would like you to answer my question.

Dr Lynch—I guess that is the sense I am getting for the reason for your questioning. I would like to reiterate that the whole basis of non-directional counselling is that attitude of warmth towards the person, no matter what decision they make—so whether or not I am going to personally refer someone to somewhere does not change my attitude to the person. My relationship with people is based on their knowledge of me as a person, their knowledge of me in caring for their grandmother or their baby. There is a sense where they are aware of me in all my facets—not everything, but they have a sense of how I treat people. That is why they come with this dilemma. They have come to discuss it with someone they trust. I take that as a position of privilege that needs to be dealt with in a respectful way with the human being who is in front of me. The women's life in front of me is my focus. That is included in the respectful care of her, no matter what decision she makes.

Senator WEBBER—I understand that and I fully accept it, but there is still the threshold issue. After all of that, do you then refer to a clinic or do you tell the person who has made that decision where else they can access that information if your personal moral code says you cannot refer? How early do you do that and do you publicly disclose that?

Dr Lynch—In terms of the relationship that is there with the person, most women in this situation would be testing out who I am right at the very beginning. Whenever we are in encounters with the medical profession there is that sense of our testing whether or not we can

trust this particular member. When they have come to me with this question, there is an established relationship of trust between us and of concern and respect.

Senator WEBBER—Personally, I absolutely trust my local GP but I have never had an unplanned pregnancy, so I do not know what his view is. I would not have a clue about that until I discussed it with him if I were in that situation, which makes me inclined to take Senator Moore's view that we should expand this to everyone—

Dr Lynch—Some of the research into counselling talks about values within a consulting room and the myth of value-free counselling—so that no matter who is in the chair that I am counselling, my values are going to influence what is said, what is not said, what is brought up and what is not brought up. Those whom I respect most in this area talk about different ways of disclosing that. They talk about hiding it and hoping that you are not going to know my opinion based on what I say. The most helpful way—I cannot quite remember the terminology—is that sense of letting you know where I stand and allowing you to have a different opinion to me within the consultation.

Senator WEBBER—But let us get back to when you have been through all of these processes—

Dr Lynch—Usually at the beginning of my process my patient will know that about me.

Senator WEBBER—So you will disclose up front that, if that is the choice they go with, you will support them with GP services and counselling but you cannot then refer them or tell them where to access information on that third option?

Dr Lynch—I do not know how to send someone away to access adoption either. Both of those options are equal in my rooms. It is really just that sense that I would state up front that I have an opinion on this that will influence how we discuss it but it does not change how much I care for her in her situation.

Senator WEBBER—So that is transparent and up front?

Dr Lynch—Yes. But that is within the setting of her knowing me and knowing that I am not some political woman.

Dr van Gend—I am not sure what great harm is done by spending that time and the person knowing at the end where you stand. What great harm has been done to the patient by the lack of signs in the waiting room? For instance, if I spend an hour with them and then they want an abortion and I cannot provide it, I do not even charge them because I do not have what they came to buy; it is not on my shelf. We have not done anything to them that is of great detriment, so why would you want to bring the heavy arm of the law in on this as well?

Senator WEBBER—I am pleased to hear that you do not charge them.

Senator MOORE—It is unusual.

Senator WEBBER—I have just been told that that is unusual.

Dr van Gend—It is pretty obvious.

Senator WEBBER—I will take Senator Moore's word on that. It seems to me that, if I am fully informed and I have been to see you about this as an option that I want to pursue and it

turns out that it is not something that you can assist me with, I have at least lost an hour of my valuable time and I could have gone to see someone else.

Dr van Gend—But I have assisted you greatly. I have given you an hour of insight, understanding and support and all that form of counselling assistance. What you are saying is that I have not given you a letter of referral. That is true, but do not think that the time spent was not of value in the relationship and to the person. That would be—

Senator WEBBER—Except the person may have decided that if they had known that up front they would have gone to see a GP who would counsel them and then refer them.

Dr van Gend—But they can do that now.

Senator WEBBER—If they do know that then—

Dr van Gend—They can do that now. That is the freedom of our system.

CHAIR—Our valuable time is a familiar thing at the moment, Senator Webber. If you have finished, I will call Senator Nettle.

Senator NETTLE—I want to thank Ms Tankard Reist for acknowledging that her work is not scientific but rather that she is a writer. How many women did you personally interview for the book that you produced?

Ms Tankard Reist—The women primarily contributed their own stories, so mostly it was first-person accounts. From memory, the book comprises 18 complete stories of women who have experienced negative effects after abortion, but it also draws from the experiences of another 250 women who contacted me.

Senator NETTLE—So you met with 18 and 250 contacted you?

Ms Tankard Reist—I met with some of them but not all of them. But I have no doubt about the authenticity of their stories or I would not have published them.

Senator NETTLE—I am not questioning you on that. I am acknowledging your comment that it is not scientific. If you say there are around 100,000 abortions a year then 18 or even 250 stories—

Ms Tankard Reist—But I do not think we should dismiss minorities. I do not think that whether it is a small percentage or a large percentage we should ignore these accounts.

Senator NETTLE—I am not suggesting we should. I was actually thanking you for acknowledging that your work is not scientific.

Ms Tankard Reist—I am not pretending to be a scientist. Is the right term 'quantitative research' or 'qualitative research'?

Dr Lynch—Qualitative research, which is quite respectable actually.

Senator NETTLE—I want to refer both doctors to the comments of the Australian Medical Association. Mukesh Haikerwal appeared before the committee when we had our hearing in Canberra and spoke about the term 'referred'. He said that he saw it as a generic term and that it did not apply just to a medical referral. I just wanted to let both of you know about those comments that were made. You both indicated various pregnancy counselling services that you are associated with—I think Dr Lynch mentioned an involvement with

training and Dr van Gend's submission talked about a management committee—and I just want to know which ones they are.

Dr Lynch—I am involved with the Pregnancy Problem Centre in Brisbane.

Dr van Gend—I have not been involved for 10 years. Since I left Brisbane I have not been on a committee or anything. I am just referring to the ones whose brochures I had in my room.

Dr Lynch—I give only one afternoon session a year to medical training.

Senator NETTLE—And yours were the two brochures?

Dr van Gend—Yes—and I am sure they are happy to table the brochures as examples of their public material.

Senator MOORE—Can we get those? They would be useful to build up our—

CHAIR—And Dr Lynch's document, as well.

Senator NETTLE—Dr Lynch, you said that you were associated with the Pregnancy Problem Centre. I suppose it does not really matter whether you were associated with it, but I will ask the question more generally. I note that in the Brisbane Yellow Pages the advertisement for the Pregnancy Problem Centre indicates that it provides abortion information. Is that your understanding of what the service does?

Dr Lynch—Yes.

Senator NETTLE—Do they refer for abortion?

Dr Lynch—No, but I think those are two different things, aren't they? This is probably the same argument we have been having over the word 'referred'.

Senator NETTLE—I suppose that is why I previously pointed out to you the comments of Mukesh Haikerwal. He did not see referral as meaning just a medical term. If you do not see 'referral' as just a medical term, which is what the AMA is saying; it could be about information. So you are saying that this organisation—

Dr Lynch—Yes, I think there is a difference in receiving information within a consultation compared with being told about information outside of it. If the broader use of the word 'refer' is to say, 'We're going outside,' then I think there is a difference in whether that is information only.

Senator NETTLE—When you look at that advertisement you put it in the context of all the other ones that are there. This one points out abortion. We have gone through all the different Yellow Pages. Some of them say, 'Alternatives to abortion' and others say, 'Abortion' quite clearly. This one quite clearly says, 'Abortion information'. So looking at that, I would have thought—and I did, because it was sitting here next to me—'Right; that's one that does talk about all three options and does support women.'

Dr Lynch—I think that all of them would talk about all three options. If they do not, they are not being truly non-directional. It is just the sense that you are implying around 'referring', being whether or not it is non-directional, and that is the problem I have with the bill.

Senator NETTLE—I am not talking about 'referral' now. I am looking at the Yellow Pages and I am trying to work out which ones deal with the issue of abortion. When one says, 'Abortion information', I would have put it into that category. To me, that is not transparent.

Dr Lynch—In what way?

Senator NETTLE—In that they will not provide you with information about how to access an abortion, and yet their advertisement says, 'Abortion information'.

Dr Lynch—I think that is semantics.

Senator NETTLE—I think it is the point of the bill, which is about making sure that the advertisements are transparent. To me, that advertisement is not transparent about the service it offers, which you have indicated will not help in assisting with information about how to access an abortion.

Senator STOTT DESPOJA—Do you think Senator Nettle might have a point—that it would not be unexpected that women who are interested in accessing information about an abortion, including availability of abortion services, including, perhaps, a referral to a termination, would ring that number?

Dr Lynch—If they were looking for those, they have the half-page ads on the other page that they can access. The fact that a woman is looking for something that is not on the—

Senator STOTT DESPOJA—So you honestly don't think so?

Dr Lynch—No.

Senator STOTT DESPOJA—Do you think that women who want referral for an abortion would not ring it?

Dr Lynch—It is not the only thing on the ad, is it?

Senator STOTT DESPOJA—You honestly, intellectually, put that on record—they would not look at that ad?

Senator NETTLE—What else is on it? It is the only thing that is clear in that ad. There are other parts in that ad which say—

Senator STOTT DESPOJA—AAA Pregnancy Problem Centre. It is one of the first you would see—and you do not think women—

Dr Lynch—I think that is presuming something about women who are searching for help. The women who have already decided—

Senator STOTT DESPOJA—But I am asking you: is it an unfair assumption or presumption? If you believe that is the case, I am happy; I am genuinely asking you. You really do not believe there is a chance that women who want information about abortion services, including terminations, wouldn't look at that?

Dr Lynch—No. I think they will look up the website of the abortion providers that are listed in much bigger print on that page. I think the woman who is searching will be looking for the small ads and the woman who knows what she wants will be looking at the big ad, which is right there. If I were thinking about having an abortion I would go to the ones listed and check them out on their websites before I even rang them, wouldn't you?

Senator STOTT DESPOJA—I would go for one that says, 'Abortion information.'

Dr Lynch—But the other ones say that they are providing abortion information as well, the bigger ads.

Senator STOTT DESPOJA—'AAA, pregnancy problem centre'? We will agree to disagree.

Dr Lynch—That is a two-line ad compared with a quarter-page ad.

Senator STOTT DESPOJA—At an intellectual level can we not be honest that—

Senator NETTLE—It is not a two-line ad; it is a picture.

Dr Lynch—Okay, I have not seen that one. There are other things in that picture, then. What else is there?

Senator NETTLE—There is a woman on the phone. That is the only bit that gives the information: 'Pregnant? Worried? Need to talk? Confidential phone counselling service.'

Dr Lynch—I think if I read that I would know that this is a service that is willing to listen to me in distress rather than an abortion provider.

Senator NETTLE—I think there can be very different views on this.

Dr van Gend—It seems to me that it is a question of proportionality. When you are talking of 10,000 penalty units for false advertising, is that really proportionate to the harm that is being done if they ring up and find that this is someone they rather would not talk to, a bit like someone ringing from India to sell you a phone service? What great harm has been done to that person proportionate to the penalties you are proposing?

Senator NETTLE—I am sorry, Dr van Gend, you were not here earlier when we were talking about the harm that women experience when they ring up one of these anti-abortion organisations and the message that is sent through. It is quite clear in a number of submissions, so perhaps I can point those out for you and you can have a look at them.

Senator STOTT DESPOJA—The law is not based on proportionality in relation to trade practices. If people lie or deceive or mislead there is a penalty, and that is it.

CHAIR—I think we have reached the end of questions now and are getting into a debate, so I will draw to a close. I understand there may be further questions from senators to members our panel today. If so, are you willing to take those questions on notice if we direct them to you?

Dr van Gend—Certainly.

CHAIR—I thank you sincerely for the time you have spent with us this afternoon. It has been very illuminating, and thank you for your patience and endurance throughout that exercise.

Proceedings suspended from 3.45 pm to 3.57 pm

MANNIX, Ms Kate Mary, Private capacity

McCOMBS, Ms Lilian, Political Campaigner, GetUp

MORAITIS, Mr Nick, Online Director, GetUp

KIRKBY, Ms Margaret Anne, Coordinator, The Bessie Smyth Foundation

CHAIR—I welcome representatives of GetUp.org.au and the Bessie Smyth Foundation and Ms Kate Mannix. Thank you for your submissions and your patience in waiting today. I think we have provided you with information on parliamentary privilege, the giving of evidence and the protection of witnesses. I invite each of you to make an opening statement and then the committee will proceed to ask you questions.

Ms Kirkby—It is an honour to have been invited to this public hearing. We from the Bessie Smyth Foundation would like to acknowledge that this has been a long second day for all senators of, no doubt, three long days, so I will try to not take up too much of your time. The Bessie Smyth Foundation was formed in 1977. From 1977 until August 2002 we were a termination of pregnancy provider here in Sydney. From February 2003 until the present, we have been a pregnancy counselling and abortion information service, providing information and counselling mainly by telephone across the state of New South Wales. We receive no government funding for the work we do.

With regard to the issue that this inquiry is looking into, we believe that we need to hear women's voices and place meeting the needs of women at the centre of any service delivery. We have read the transcript of the public hearing held on 22 June and are aware of the thrust of questions from senators and the concerns raised. We are concerned, though, that some of the discussion seems to imply that women do not know their own minds when a pregnancy arises at what I describe as 'not quite the right time'. The reason we prefer to use that phrase rather than 'unplanned' or 'unwanted' is that both those words, 'unplanned' and 'unwanted', have a lot of implications behind them which women do not feel very comfortable about if we do use that language. So we prefer to use the phrase, cumbersome though it is, 'not quite the right time'.

Our casework experience as a pregnancy counselling and abortion information service confirms that, when women first realise they are pregnant at not quite the right time, the majority of women are already leaning towards a decision one way or the other. That is either that, even though the timing is wrong, they want to continue the pregnancy or that their circumstances are such that having a termination is their preferred option. The biggest majority of our clients want to terminate their pregnancy and want either practical assistance and advice or counselling which supports them in their existing decision. Only a small percentage of women, between five and 10 per cent, request what we would call decision-making counselling. I will address later on within this the issue of decision-making counselling.

With regard to assisting women to implement their decision no matter what their decision is, given that the overwhelming majority of women already know what their decision is before they approach a pregnancy counselling service, and given that the majority of women

who approach services know that they want to terminate their pregnancy, it is even more important that whatever services are available, whether funded or unfunded, are transparent in their advertising of what services are or are not provided.

We go to the Australian evidence on this issue about what women's counselling and information needs are. The documents we go back to are the 1994 report *We women decide: women's experience of seeking abortion in Queensland, South Australia and Tasmania 1985-1992*, which was a comparative study of access to abortion in different states, and the 1996-97 National Health and Medical Research Council information paper. More recently there has been a small study conducted in one area health service here in New South Wales known as the 'Women's Voices report', by a researcher called Kylie Di Battista, which was published in 2004. That report is about how young pregnant women can be better supported in their decisions.

But what the Australian evidence out of these reports confirms again and again is that women want access to information about abortion. As a general rule—and I have a rider below this—women do generally understand, if their decision has been to continue a pregnancy, that they can go to their local general practitioner or just the antenatal clinic at their local public hospital and then proceed with that. However, the rider that I would add to this with regard to women continuing their pregnancy and accessing information is that there are a range of women out in the Australian community who are having extreme difficulty in accessing decent information about continuing a pregnancy. Those are women who are not eligible for Medicare and therefore they would be charged fees—this is public hospital system rates in New South Wales; I cannot quote for the other states. But, if you are not eligible for Medicare and you decide to continue a pregnancy at a public hospital in New South Wales, you will be charged $95 up front for each antenatal visit and you will be asked to pay an up-front fee of $3,000 or $5,000 for delivery. Most public hospitals will allow you to pay with an instalment plan, but you usually have to come up with about $1,000 to $1,500 as your deposit and then you pay off the rest.

Most of these women who are not eligible for Medicare are in dispute with DIMA, the Department of Immigration and Multicultural Affairs, and they are also not allowed to work. So when they are in this category and they are facing these kinds of up-front fees the question has to be asked: how can they pay money or even commit to paying on an instalment plan if they cannot work? These women are being thrown to the dogs, in my opinion, and they are having to rely on charity and friends. A lot of those women are in quite dire straits.

Another group of women who have problems in accessing the information if they want to continue a pregnancy is younger women in the 16 to 19 age bracket. Oftentimes there is great family pressure on them or just pressure of circumstance and not a lot of support out there. The third group of women who have massive access problems if their decision is to continue a pregnancy are of course rural, regional and remote women. The recent ABC *Four Corners* program on that issue said it all. That program made me ashamed to be an Australian citizen. I am a person who grew up in the country, so it means a lot to me to know that women in rural areas who have decided to continue a pregnancy cannot access decent services and have to travel so far.

I am going to make a couple of what will appear to be eclectic points, but I want to pick up on different discussion points in the transcripts available and what I have heard today. On the issue of decision-making counselling, as I have said, such requests are a small percentage of callers—five to 10 per cent is our assessment—you usually recognise straightaway. The call usually starts out, 'I just found out I'm pregnant and I'm so confused. I don't know what to do.' Our policy is that you go into a very different mode of counselling, because you must be non-directive if this woman is so uncertain about what to do. It is very important, for example, if she raises the issue about depression: 'If I have an abortion, will I get depressed afterwards?' Or 'I have had a history of depression. If I continue this pregnancy, what are the chances of getting postnatal depression?' Even when you present that information to her in response to that question you still have to preface your comments by saying, 'I am outlining this research for you but it is not an argument for why you should go one particular direction or the other; it is just to give you the information.' Decision-making counselling in our view requires a lot of ethical judgment and a stepping back. It is very important that you are not influencing that woman in any way but are sending her heaps of reading resources as a follow-up to the counselling for her to go away and read and also information on services that she can access about the range of information that might have been raised in that counselling.

On the to-ing and fro-ing that has occurred over the word 'refer', we would reject the view that referral to an abortion provider is solely the prerogative of a doctor. If you place meeting the needs of women at the centre of your service delivery, you have to have referral information about a wide range of services—and not just where to get an abortion or where to get support to continue a pregnancy or about adoption. Maybe I am saying this because of the nature of the clients we are getting. I can categorically say to you that there is a massive problem of access to information and access to abortion—in the state of New South Wales at least. I think it is across the board in other states as well. We are receiving a huge number of calls from those on very low incomes and the disadvantaged. I am talking about people who do not have the money to have a landline installed as their way of communicating; they operate with a prepaid mobile. Half the time they do not ring. They do not have enough money to pay for the credit to have on their prepaid mobile. It is very common to get a call from a friend or a neighbour of the woman who has no credit on her mobile. The call is: 'I'm Mary Smith. Can you phone my next-door neighbour, Jo Brown. This is her number.' And the number is a mobile number.

We are very conscious about wasting women's time if you do not give them decent referral information. These are women who do not have a lot of money to access information and services. They do not have credit on their mobile to even phone us and we are phoning them back. You are insulting them and wasting their time if you just give them a stack of numbers to ring. How are they going to ring them? It is huge challenge. It is not only for us. I read the annual reports of the Salvos and St Vinnies—all of the church based charity organisations. All of them, like us, although they are dealing with different areas, are talking about the complexity of the issues that clients are dealing with. It is a huge issue for all grassroots organisations dealing with people. It is not only about pregnancy counselling.

When a woman rings and wants information about abortion, in the course of the call we will find out about a drug and alcohol problem and that she has had interaction with DOCS—

the Department of Community Services—and perhaps has had children taken from her or is under threat of same. She might have a tenancy problem; she might have a debt problem; she might have a Centrelink problem. From our perspective, we have all the referral information. We have the numbers of the Welfare Rights Centre and the tenancy advisory services. Even though that woman is not ringing us about those, we are still going to send her that information or give it to her if she is interested enough at that point. For some women, because of the nature of their circumstances, we will go to the trouble of ringing those services to get a bit of information for them in recognition of the fact that they do not have the capacity to make a call on their own behalf. This is only going to get worse with the Welfare to Work proposals that have come in with the 'sudden death' policy of: people being knocked off Centrelink benefits for eight weeks without any sort of appeal mechanism at all.

I have heard an assertion several times today that if women have decided on abortion, they know where to go. We attached part of the *Yellow Pages* to our submission. If you look under 'pregnancy termination', there are so many services. How do women as health consumers work out which one will best meet their needs, even if they have been very clear that their decision is to have a termination? Women have different needs with regard to what particular termination service might be the best. They might have a preference for an all-female team in theatre. They might want to be able to say a prayer for the foetus in theatre. You have to be able to be prepared to get on the phone and talk to abortion providers and negotiate these things.

It is not an easy fact for women to look at these numbers and ring. What we usually suggest is to ring at least three, but that is not something women in rural and regional areas of New South Wales have the benefit of—they mostly just ring their nearest one. As a general rule, we suggest ringing three and getting a feel for how you are being treated by that termination of pregnancy service. If you feel your questions are being brushed off and you are being told, 'You'll find out on the day,' it is probably not the best of services. Women want to know this. They want reassurance.

The other thing that has not been allowed for in this is the impact of misinformation on women. Even if a woman is really clear that having a termination of pregnancy is what she wants to do, you never really know until you are pregnant at not quite the right time and are deciding to have an abortion how much is in your mind that has been affected by the misinformation that has been put around by anti-abortion services. All the stuff that has appeared over the years saying, 'They don't use sterile instruments; they treat women really badly; they just want your money,' is there in people's minds, so they need reassurance about the standards of the clinic and what to expect when they go there. Many women have some basic questions, such as: 'What type of anaesthetic is going to be used?' They want a discussion about the differences: 'How do they affect me?' You do need to have paramedical information and knowledge, because women do make these requests for information. Again, we bring it back to the idea that you place the needs of women at the centre of your service and work out from there.

This afternoon Dr van Gend raised the question: 'What harm has been done to women who have spent time talking to a doctor who at the end of the one hour, possibly, will not refer or provide information about where to go for an abortion?' I can tell you what harm has been

done: that woman has had one hour of her time wasted. If it was through a phone service, she has wasted a phone call. If you are dealing with someone on a low income or who is disadvantaged, which is one of the main groups that we deal with, you have definitely wasted that person's time. They do not have the capacity to readily make calls.

At the worst end of the scale—and we have dealt with many of these cases—vulnerable women are harmed the most. Often times some of the anti-abortion services—and I am not referring to Dr van Gend or Johanna Lynch—listed in the Yellow Pages provide incorrect information, non-evidence based information, about the risks of termination of pregnancy, and they turn women off that as their original decision. But then, four weeks later, the woman does a reality check and realises that it is not possible for her to continue the pregnancy, and she might ring us. But now you are talking about a woman having the termination later, and that becomes far more costly. A great deal of harm is done to women who go through all of this rigmarole only to find that they did not get the information they wanted. This will be readily addressed by these advertisements stating whether they do or do not refer for abortion.

My nearly final comment is: why has the referral for abortion become the crucial issue being argued over in Senator Stott Despoja's bill? It is not because Senator Stott Despoja has a thing about that; it is because of the history of what has happened to Australian women ever since anti-abortion agencies and services opened up in the middle eighties. Basically, if you look at *We women decide* and other, little reports by state health departments, what comes through time and time again is that access to information about where to go to get an abortion has become the crucial issue for Australian women. That is why it has become one of the main points in this legislation—and it is a very crucial piece of information for women to know.

My final comment is about the Women's Forum Australia submission. To say that we have a vested financial interest in women proceeding with abortion because we have a list of abortion providers in New South Wales on our website and because we have declared that we provide abortion information as well as pregnancy counselling is complete anathema to our whole philosophy. We have no financial connection with any abortion provider in New South Wales.

For those of you who do not know about the specific state based history of New South Wales, the women who set up our former termination of pregnancy service in 1977 did so because they worked for some of the then private abortion providers. They knew we could do it better—and we did do it better for the 25 years that we ran a termination of pregnancy service. We set the benchmark. Many of our colleagues who were fellow abortion providers pooh-poohed our existence and said that we were in the 'brown bread and yoghurt brigade' and so on. They saw us as a competitor to them. We do not have a vested financial interest with any provider. In fact, we are probably a thorn in the side of some because we are very willing to criticise where we think it is appropriate and to take it up with practice managers.

We would also dispute very strongly the assertion that abortion providers have a vested financial interest in women proceeding with a termination of pregnancy. You have only to look at what has happened with medical negligence actions and the direction in which premiums for professional indemnity—both for individual cover that doctors must have and for clinic based cover—have gone to see that premiums have just skyrocketed. That is one of

the reasons why we sold our clinic. All abortion providers realise that, if they perform an abortion on a woman who, at the end of the day, really did not want that procedure, they are looking at the possibility of a medical negligence action. No abortion provider wants a woman to have an abortion that she did not want to have. So I dispute that assertion.

We refer women and give them the information they want—that is, the numbers of a couple of abortion services. We are very firm about our view. We do not play favourites. There is not one particular provider whose number is the only number we give. As a general rule, we give three, and possibly even four or five, depending on the woman's capacity to make phone calls. There is just no vested interest at all between us and abortion providers.

CHAIR—I should draw people's attention to the fact that we are going to have to finish this session very close to five o'clock, or soon after. Can you bear that in mind while you are making your opening statements.

Ms Mannix—Thank you very much for inviting me to address you today. Because I do not represent anybody, I might tell you very, very briefly a little bit about myself. I have a background in journalism and a degree in theology, but, by occupation, I am a stay-at-home mother of four. I am a practising and committed Catholic. I live a very pro-life life. To be clear: I personally never had an abortion, nobody close to me has had an abortion and nobody close to me or in my family is any sort of abortion provider. Therefore, I have no agenda about abortion. I would like to suggest that, in the scheme of things, I am a very disinterested witness, and I am very much in favour of this bill.

I am in favour of this bill because of what it is about. This bill is about disclosure and transparency—and that is all it is about. It is just about telling the truth about who you are and what you believe in and what you do. I cannot see any reason or any benefit to anyone, including the providers, not to so disclose. This bill serves the needs of the taxpayers who are paying for services; it serves the needs of clients who receive services. Indeed, I would like to argue that it is in the interests of the providers to disclose their views. I would like to talk a little bit more about that in a sec, but really briefly.

But, before I do, I would also like to address this referral matter. Departmental officials at this inquiry have claimed that 'referral' ought not to encompass referral to a termination service, apparently because this constitutes a task restricted to medical personnel. I would like to argue to you—following another submission to this inquiry; I believe it is 33A—that if this is the case then pregnancy counsellors ought not to refer for adoption agencies either. In his submission to this inquiry, consultant psychiatrist Dr GA Rickarby refers to common mental health outcomes for women who have had their children adopted out. These are a few of them; they include: pathological grief, post-traumatic stress disorder, major depression, alcohol dependent disorder, prescription drug dependent disorder, disorder and incapacity in human relationships, educational failure and poor employment status, and a failure of bonding to other babies. These are a few of them. They are documented. I believe Senator Humphries participated in the forgotten Australians inquiry, and some of that information would have come out there and also in the New South Wales inquiry into the after-effects of adoption. The literature in this area of consequences after adoption is really quite large, and I would suggest to the inquiry that volunteer counsellors are, therefore, very unlikely to be competent to refer a pregnant woman to an adoption agency.

Following on from that, the Department of Health and Ageing uses the term 'non-directive'. That is a little bit funny in Catholic circles because, coming from Carl Rogers's guide, in Catholic circles that non-directive style of counselling is associated with what has been described as a therapeutic mentality. It is also associated with, in the sixties and seventies, nuns in their convents ripping their habits off and having indiscriminate sex with everybody so they could 'find themselves'. It is really rather hilarious that it is being raised in this context. However, it is useful if it means it is a style of discussion in which the counsellor simply prompts a person to arrive at his or her own decision. However, I cannot understand how non-directive can also incorporate any information that is designed to sway a person's decision, such as infertility, mental illness or breast cancer.

Australians reportedly want fewer abortions. I understand it is also true that they do not support a change to the law that would make abortion more difficult to obtain. These two facts together suggest that what Australians really want is fewer unwanted pregnancies. Therefore the political imperative, I suggest, should be to identify the conditions that will lead to that outcome. I further suggest that the present provider—and similar—could be a key resource to achieve that aim.

If I may, I will speculate briefly—and this is not my area so this is absolute speculation. In the United States the Guttmacher Institute, which is a sexual and reproductive resource, have reported just this May on a study about who is having abortions and why. They report that in the United States a majority of women having abortions are in their 20s and six out of 10 are already mothers. For many people in the United States economic and relational factors are key to the decision to have abortions. Say there was a specialist niche pregnancy counselling provider. In the greater scheme of things, if someone knew there was some way out of their economic difficulties and, all things being equal, if those were fixed, they would continue the pregnancy. It would be very useful if there were such a provider who, with connections to charities, could perhaps provide dedicated, precise and particular assistance to solve a particular problem. I feel very privileged to sit next to Margaret Kirkby, and I would really like to say that.

Finally, I have a story from the other side. Shortly after my first husband died, I went to work in a fancy Catholic girls school. There was a situation where a girl in another school—not a Catholic school—had been thrown out of the school because she was pregnant. As I was new to the school, I asked in the staffroom, 'What happens if a girl is pregnant at this school?' The teachers all looked at one another, thought and then looked back at me and said, 'We don't think it's ever happened.' Even they did not realise what they had said. The rich, Senators, will always get abortions for their children. The people who will seek access to the services that we are seeking to found and do found are likely to be more needy. They are likely to have fewer people in their lives who can support them and fewer financial resources. Therefore I think morally we are in a very murky area unless we can treat such people with the same human dignity that the previous witnesses claim that they do. I cannot see how we are treating them in a dignified fashion if we leave them to believe that there are three options that can be discussed and then, after a long and charming conversation, we only deliver them two. Thank you for listening.

CHAIR—Ms McCombs or Mr Moraitis, which of you would like to speak?

Ms McCombs—I would, Chair. Thank you, Senators, for having us here today. I am Lilian McCombs. I work with an organisation called GetUp. I will be explaining a little bit about it to you all. I am the political campaigner with GetUp and I have been the primary organiser of GetUp's online based campaign in support of this bill. My colleague Nick is particularly well placed to answer any technical questions if the committee has any about how GetUp has facilitated communication between the public and the committee on this issue.

GetUp is a not-for-profit, independent community campaigning organisation. We use online technologies, online based communications, to empower everyday people to get involved in the political process and to have their say on important national issues. We have members from all walks of life in every electorate around the country. We define members as being individuals who have signed up to learn about GetUp's campaigns. They participate on an opt-in basis when they choose. They also communicate with us regularly—mostly by email—sending in their campaign requests, important news items of information, feedback, questions and offers of assistance. They choose to discuss issues with us on the blog and in other forums.

We are not a single-issue campaign organisation, so in that sense we do not have a longstanding expertise or vested interest in this issue, nor are we aligned to any political party. It is precisely because of our independence and broad focus that we have acquired a diverse constituency which reflects a significant cross-section of the Australian community, including suburban mums and dads, retirees, university students, rural farmers and urban professionals. Our members tell us that they vote Liberal, Labor, Democrats and Greens and that they belong to a range of personal beliefs and religious faiths.

The purpose of GetUp is to promote communication and accountability between these Australians and their elected officials, re-engaging the community in the democratic process. It is our experience that, although people are busy, stretched and stressed, they care far more about politics and the policy decisions of the nation than they are sometimes given credit for, and their qualitative engagement on this campaign has certainly been evidence of that. To date, more than 14½ thousand people have signed the GetUp petition to regulate pregnancy counselling. I have a copy of the petition, and it is up to date as at yesterday. The petition goes one step further than the focus of this bill today, but it echoes the support of Senator Natasha Stott Despoja's petition on her website, which is to 'ensure that government funded counsellors provide objective and truthful information about all available pregnancy options'.

In addition to supporting the petition, a very large number of people—thousands, roughly half—have gone to the effort of writing personal remarks to express their disappointment at the current lack of regulation and to express their passionate support for this bill. I would like to speak a little about the themes in the community reaction that we have had. First of all, though, we often get asked: 'How do you pick which issues to campaign on?' I would like to say that it is not a process that we engage in lightly. We realise that there are lots of issues out there competing for the media spotlight and national attention but, when we learned of the deceptive practices that you have been discussing here and the harm they are causing to women and their loved ones, we felt that this was a case of injustice occurring beneath the public's radar and we saw significant benefits in raising awareness of this issue and in mobilising members to help support this bill.

I will briefly touch on a few of the themes now. I have lots of examples of interesting feedback that I can give you from people, many of whom have personal experience of providers of pregnancy counselling who do not provide information on all options. First of all, there was a general sense of disbelief. The community said, 'We know what a counsellor is. A counsellor is someone who helps you reach your own best decision, not someone who has an agenda to push.' I can read you out some examples here, but I am also aware that we are constrained for time.

CHAIR—I mention that we have the emails which have been generated by the campaign and they are available for us to peruse.

Ms McCombs—Yes, but I also appreciate that you probably do not have the time to sift through hundreds of pages, so we have pulled out a few of the more salient examples. One person said:

When women (and men) find themselves in the position of having to terminate a pregnancy it is imperative that they receive balanced and, most importantly, impartial advice from counsellors. It is immoral for a counsellor, or anyone else for that matter, not to give complete and honest information. A government has no right to impose their religious based morals views on the populace.

Another woman wrote:

I work as a social worker in the area of pregnancy counselling and I understand the utmost importance of providing women with the opportunity to make decisions re their unplanned pregnancy in a neutral and unbiased counselling environment. Any other form of 'counselling' is very damaging to womens health and disrespectful to their fundamental right to choose what is best for them. Please move to regulate government funded pregnancy counselling immediately.

Others expressed sheer alarm and disappointment that we even have to be considering this issue in this day and age. They cannot believe that these protections are not already in place. One woman wrote:

I find it amazing that the people of Australia should have to lobby government in order to see an end to deceptive business practices such as this. To misinform women when they are at such a vulnerable time goes beyond deception and should be classed as fraudulent activity. Close the loophole that allows this to continue, and give people living in this so-called democracy the right of freedom of choice based on facts not ideology.

Senators, in a free nation where abortion is legal do we really have to mount a campaign to stop the government of the day providing tax payers money to anti abortion groups masquerading as pregnancy counsellors? Obviously a government's policy is governed by the ideology it professes but this is an abominable abuse of power, is unrepresentative and must stop immediately. If anti abortion groups want funding they should raise it from private supporters not be funded by tax payers.

It goes on and on. There was complete support for the principle of informed consent, including by people who stated quite openly, 'I do not support abortion, from my own personal views.' Some people wrote, 'I have a right to know if the place I go for help is antichoice.' One woman wrote:

If these organisations are so sure their anti-choice messages are best, why are they so scared that others will reject them?

Another wrote:

I am both pro-choice and pro-life. I do not think that abortion should be regarded as just another means of contraception. However, I believe that women who face a difficult decision should be allowed to make decisions based on information provided by properly trained counsellors who do not have a hidden agenda.

This is from another:

When a woman believes she is contacting an organisation/help line for unbiased support, it can be incredibly damaging if in fact they receive biased, emotive advice urging them in one direction. It is entirely unethical for an organisation to promote themselves as offering general 'support' if they are in fact pushing their own agenda.

That was submitted by a doctor. Another wrote:

Although I could not go through with an abortion myself and espouse Christian values, I believe the decision must remain firmly in the hands of the woman in question.

Another wrote:

This is not about choosing pro-life vs pro-choice platform for policy-making or politics—one's stance on abortion is one of personal opinion and of different ideological agendas. What IS at issue here is DELIBERATE DECEPTION & THE TAKING ADVANTAGE OF YOUNG WOMEN ... WE ARE TALKING ABOUT A FUNDAMENTAL ABUSE OF THESE WOMEN'S TRUST AND OF THE OFTEN HIGHLY VULNERABLE PERSONAL STATES AND SITUATIONS MANY OF THEM ARE FACING WHEN THEY REACH OUT FOR THESE SERVICES ...

Throughout the comments there were general discussions of the community's anger that the Australian Federation of Pregnancy Support Services receives taxpayer funding, even by people who are opposed to abortion:

Dear Senators: As a Christian I do not personally support abortion, but I firmly believe that it must be a woman's own decision. Services that emotionally bully women into submitting to their pro-life agenda should never be funded under government programs.

And:

I am writing to respectfully demand that government funding is only provided to pregnancy counselling services that provide impartial and factually correct pregnancy options, based on respect for a woman's right to make an informed decision according to her circumstances.

Overall, there was discussion of what kinds of values we want for our country and what kinds of values we as a society want. Time and again, people expressed their support for education and access to the best evidence based, balanced and accurate information as the way to reduce the risk of unplanned pregnancy. That is in line with the values of a free and open society. We can talk more about this. I want today to help bring to your attention that the public want this bill to go through. They see it as the bare minimum in standards for a society where there is access to information. There was outrage at the sense that this was just being allowed to happen unregulated. There was concern for the vulnerability of rural women and young women in particular, who do not have easy access to alternative sources of information or support.

CHAIR—Thank you very much.

Senator MOORE—You have all been sitting in the room for the evidence we have heard. I think it is probably useful just to get some idea of this. You heard comments as to why

people felt strongly that the bill was bad and why they thought it actually discriminated against services that were providing 'valuable, effective services'—and that is a direct quote. Each of you has gone on the record with your own reasons for why you personally and the organisations you represent support these changes. Can you see the arguments presented by the people who feel that the bill is discriminating against services that are being offered to the community in good faith? I ask that of all three—or four; you could all have a go—groups of you. I am interested to see whether you can see the issues from their point of view.

Ms Kirkby—No, I do not. I cannot see what the problem is with having a one-line denotation on an advertisement saying, 'Will not refer for abortion,' or 'Will refer for abortion.' It is health consumer information. Particularly when one considers the rate of poverty and destitution amongst women and those on a low-income and the disadvantaged, it is wasting people's time if they are after one particular thing and the advertisement does not tell them whether they are going to get the information. I have dealt with a lot of women who have first gone to an anti-abortion service and have even begun the conversation with the other person by asking, 'Are you opposed to abortion?' They actually directly asked that agency what their view was, and the person from the agency did not answer them directly. I find that extremely misleading. People just want to know. Nobody is saying that those services should not exist; it is about a declaration of what their perspective is. I cannot see any problem with that. I do not see why services are concerned about declaring that they will not refer for abortion, because I know some women will go to those services because that is in their advertisement.

Ms Mannix—I dwell in this Catholic world—

Senator MOORE—And sometimes it is a funny old world.

Ms Mannix—You have no idea.

Senator WEBBER—She does!

Ms Mannix—Part of the reason for my being here is that I know people who have been counsellors in these services and who have left because anti-abortionism has become almost a matter of doctrine. We know statistically that Catholics have abortions at the same rate as everybody else, but you would never say it. The people I know who have been counsellors and who have left have left because they just did not feel that what they were doing in the end was right—all of that faintly patronising, caring, sharing, long-form interview but at the end of it the implication that their view was the correct view. There is not any real recognition that another person has autonomy.

Senator MOORE—And from GetUp—maybe because 14,000 people have put their opinions to you?

Ms McCombs—We also heard from people who had had personal experience with counselling with these groups. One man said that he was threatened if he advised a homeless woman about where she could receive support for a termination of pregnancy. In his experience, he felt that these groups would say anything but the implied threat was always there as the bottom line at the end of the day. We can only presume that these groups fear that they will not be sought out by women if women know up-front whom they are contacting. That fundamentally conflicts with the community's values and support for informed consent.

We are not saying that they do not have the right to do what they do, that they are not good-hearted people doing what they believe is right or that they do not provide compassion or support. That is fine, but they need to be honest about where they are coming from.

Senator ADAMS—Ms Kirkby, I remember you spoke very strongly about rural and regional people in the last lot of evidence you gave. As you are aware, I come from a rural area. I have just looked through the pages you gave us and I cannot see your advertisement. How do you advertise your service?

Ms Kirkby—The only thing we can afford is the Yellow Pages online. When we had a clinic, it cost us $4,000 to $5,000 per annum for a print ad in the Sydney print version of the Yellow Pages. We cannot afford that.

Senator ADAMS—What wording do you use so that those people know? I remember last time you said that a number of your callers had become terribly upset and frustrated because they had rung four, five or six services and got quite a lecture about what they were doing before they finally got to you and said, 'Thank goodness I have found someone.' How do they actually find you?

Ms Kirkby—We are under the 'Pregnancy counselling and related services' section of Yellow Pages online. We advertise that we provide pregnancy counselling—all options: pre and post abortion counselling, referral for termination of pregnancy and other things; I am sorry, I cannot remember them all, but I know we have very few points.

Senator ADAMS—That is all right. So it is very clear what you actually provide?

Ms Kirkby—Yes. I think that, because we have a history in New South Wales, people would recognise that we are place they can go to. Even when we had a termination of pregnancy service we played a de facto state wide information role and we were noncompetitive. If women were not suited to our clinic, we freely gave them the phone numbers of other services, if that was what they were after. Sometimes we would get calls from women who wanted to continue a pregnancy but had a very specific medical issue and just wanted somebody to give them, maybe, a specialist who could assist them with working that out. There is a combination of a history, but I feel our ad is fairly explicit.

Senator STOTT DESPOJA—First of all, I would like to thank you all for your supportive and constructive contributions. I am requesting of you that I can put my questions to you on notice, if that is okay, but I might follow up one issue that Senator Adams asked of you, Ms Kirkby, and that is the issue of advertisements. In your submission you have supplied a copy of the Sydney Yellow Pages, and the first and most standout ad I can see is one that says, 'We care. Pregnant? Confused? Need help? 24-hour free and confidential service.' I suspect I might know who it is, but that ad says nothing to me. Do you know who the organisation is?

Ms Kirkby—Is that the 9299 1057 service?

Senator STOTT DESPOJA—Yes, it is.

Ms Kirkby—They are the ones I phoned. I referred to it in our submission. I rang them on 16 June and pretended I was a woman who was pregnant, had decided on a termination and wanted the phone number of the nearest abortion provider. The woman said, 'We've got all these lines coming in and we don't hold that information.' She went on to talk about some

alleged risks in termination of pregnancy, which were completely wrong. It would not have been consistent to start asking questions like 'Who are you?' so I did not ask any questions and I have not made any attempt. But it does bemuse me. If they say they have lines coming in, who is behind them? In that advertisement there is no reference to the organisational name. I know that it has been mentioned here that the words 'abortion alternatives' give people an indication, but I do not agree. I think that is a code. Because I have been an abortion rights activist for a long time, I know that that means they will not provide referral for abortion, but the average citizen out there does not understand that those words are a code. I think that, whatever the denotation is, it has to be very explicit. The bottom line is that it comes down to whether an agency will or will not refer for termination of pregnancy.

Senator STOTT DESPOJA—Thank you for that. I note that in this ad it says quite explicitly 'abortion counselling'. On that point, Ms Mannix, you have made clear in your submission your support for clause 7 in relation to the emergency pages—that it is quite legitimate, you believe. Certainly you support the provision as currently drafted in the bill that only a non-directive service should be allowed to advertise in that section. Would you like to elaborate on that? As you know, it is a point of contention, but I was wondering whether you would put to the committee your rationale as to why, in that particular section, non-directive criteria should be satisfied.

Ms Mannix—If you have an unintended pregnancy, even if you do not know yet whether it is an unwanted pregnancy, even at that minimal level, I believe there is likely to be a measure of confusion and anxiety, even if you are an English speaker, you have education and you have some money in the bank. I do not think we should be overwhelmed with information. I do not think we should be being asked to do long interpretive studies on the hermeneutic of the abortion counselling ads; it just needs to be clear and therefore it is to be limited. In my view, the service that the government funds needs to be primarily informational. They need to be providing first of all the information, and then perhaps more, if there needs to be some more expert advice given. Perhaps, as I said earlier, there is a real place for services that want to help you continue your pregnancy. If so, they should say that. They should say, 'We are here to help you to continue your pregnancy,' so it is absolutely clear. But for emergencies, we do not want to muck around.

Senator STOTT DESPOJA—Thank you. I will put further questions on notice in the interests of time.

Senator WEBBER—Ms Kirkby, regarding the 'Pregnant? Confused? Need help?' ad that we were talking about on page 2323 of the current edition of the *Yellow Pages*, you talked before about when your service operated a clinic the amount of money it cost to advertise in the printed edition. Is that about the size?

Ms Kirkby—No, ours was one-column width. That is a double column width, so it must be costing about $10,000.

Senator WEBBER—About $10,000?

Ms Kirkby—Yes. And it has got colour. We could only afford straight black on the yellow page. When you add colour it costs more.

Senator WEBBER—So it is not an insignificant amount of money to come up with—

Ms Kirkby—No.

Senator WEBBER—to then not be particularly clear and transparent about the services that you provide. So when people say that they think perhaps the penalty provisions of this proposed legislation are a bit harsh, it would seem to me that, if you can afford 10 grand for an ad, you can afford to pay the fine if you have broken the law.

Ms Kirkby—The thing that I found most fascinating about a couple of those ads is the fact that they very clearly use the words 'abortion counselling'. I have been involved in this for a long time, and it was actually a phrase we used. In our clinic back in the eighties one would describe oneself as an 'abortion counsellor' because you worked in a clinic. But you were also very attuned to the fact that maybe the woman was there under pressure. So you were always attuned to identify that and suggest to her, 'Maybe you should go away and have a think rather than go through with the operation today.' It then became seen as not good to describe oneself as an 'abortion counsellor', so people began to use different phraseology. When I looked at it, I thought: 'Wow. They are using the language we used.' Any ordinary person looking at that would think: 'Abortion counselling. Abortion is my decision. Therefore, they can both counsel me about it and give me the information.' That is, I believe, the interpretation that most people would take from those two words.

Senator WEBBER—I have a brief question for the people from GetUp. You may want to take this on notice, because I am conscious of the time. In fact, it is probably as much my fault as anyone's that we are running late. It is a very short bill. We have had lots of discussions about people not quite understanding what some of the sections mean. In talking with your campaigner about this proposed piece of legislation and talking to people, have you had any feedback? Is it clear to you what different sections mean and how they would be interpreted? If you think they are not clear, perhaps you could take on notice suggested refinements to the bill?

Ms McCombs—Would you like me to answer that now?

Senator WEBBER—If you feel you can, briefly. Otherwise I am happy for you to consider it.

Ms McCombs—The only thing that I personally found a little confusing was the notification of services. Does that include everything they have on their website, for instance, because we live in an internet age, or are we just talking about an ad in the *Yellow Pages*? I am a 25-year-old woman. If I want to find out information I go online. But I am also tertiary educated and living in the middle of an urban population and in a much different situation, so I appreciate that women go all over for support.

I think there is confusion about whether they will still be able to provide misleading information or whether they will just have to disclose that they do not provide information about where to obtain an abortion. I would say that is the primary point of confusion. In other words, if you call up a group and you get told that if you have an abortion you will become infertile or you will get breast cancer et cetera, do you have any recourse? If you as a woman feel traumatised by that information, is there any legal recourse available to you to say that was wrong, or is it covered by the fact that they put a little asterisks underneath their ad in the *Yellow Pages* and it says next to it, 'We don't provide information about seeking an abortion.

Why you shouldn't have an abortion is the information we provide'? The community would probably not see that as the only safeguard that is needed.

Senator STOTT DESPOJA—Just on that point, it is in line with the Trade Practices Act, so it deals specifically with notification. That would include a range of environments in which you would advertise, or advertisements as you would understand them. Obviously definitions are available in the legislation but this bill is not specifically addressing—unfortunately, but it is not appropriate at this point—the quality of counselling or a complaints mechanism. I am not suggesting those things are not important, but we are dealing very specifically with recourse if there is false or misleading advertising. I am happy to discuss that in more detail later.

Senator NETTLE—I wanted to ask you, Ms Mannix, about your comment about the Catholic Church not regarding abortion as wrong. We only have five minutes; I do not know how you will go with only five minutes!

Ms Mannix—That could be a really long answer, so I will try to keep it really brief. The Roman Catholic Church's position was not against abortion particularly at all until 1869. The issue was to do with 'ensoulment'—when the soul entered the body. The Catholic order has been dominated for most of its history by Aquinas. Aquinas believed that the soul entered the foetus at six weeks for a boy and nine weeks for a girl. Therefore, prior to those weeks, the foetus was not fully human. The big sin in the Middle Ages—and I can get expansive—was usury. You could get into terrible trouble for that but not abortion. Indeed, Augustine in the fifth century had great sympathy for women trying to limit the size of their families. That existed in many of his writings, as well as in those of other writers. I just discovered the other day that Exodus 21:22, for the biblically based Christians amongst us, is a very interesting passage to review. It is to do with what should happen if a pregnant women is attacked and she miscarries. It is clear from the context that it is the women who is of value and not the foetus.

CHAIR—Could I just come back to the question you answered for Senator Stott Despoja about proposed section 7 as it is now drafted in the bill. You talked about a woman facing an emergency wanting to be able to get information very quickly and you therefore—I think I am interpreting you correctly—only support the idea of services offering an abortion being available at the access point of the help pages in the *White Pages*. Is that what you are saying?

Ms Mannix—Yes.

CHAIR—So even if a service were to describe itself as a service that did not offer abortion referral assistance with your pregnancy, that would not be a suitable ad to appear in those pages of the telephone directory?

Ms Mannix—I would not have thought so in the emergency section, because if someone knows already that they want to continue their pregnancy and they need a service to help them to do that then there is no rush. The rush is in making sure that you have all of the information for all three options. That seems to me to be self-evident.

CHAIR—Take the sort of person that Ms Kirkby was talking about before. The person rings up and says: 'I've just found I'm pregnant. I'm confused. I don't know what to do.' How

do you know that person is one who has decided that she will need an abortion? They may be a person who is confused and does not know what to do.

Ms Mannix—Undoubtedly that would be the case. But an experienced person—such as Ms Kirkby—on the end of that telephone would probably know that. I am anxious that there seems to be amongst some people—not you, Senator—an assumption that if a service will give you abortion options therefore it is somehow flogging abortion. I do not think that is a valid assumption. I do not think anyone wants to do that.

CHAIR—This is a question for the GetUp people. People go to the GetUp site, they read what you describe as the information about your campaign on pregnancy counselling services and then they sign the online petition and send that to you or to whomever it is that you direct the particular petition to be sent. I assume that they read your views or the case or concept that you present about the legislation. Do you present the other side of the coin? As we are hearing in these hearings, there are two sides to every story and there have been very much two sides to this particular debate. Is there any way that they can read on your site the case in favour of or against the legislation or in favour of or against changing the arrangements?

Ms McCombs—Have you had a chance to look at the website?

CHAIR—No, I have not.

Ms McCombs—First of all, people heard about the campaign through an email that we sent out. I am happy to leave that with you so you can read exactly what we have been talking about. As for the people who have not received that email, when they go to our site there is more information there. All the website is saying is that right now pregnancy counselling is not regulated in Australia, that there have been cases of people being called 'murderers' et cetera, that there is currently a bill before a Senate inquiry that looks into the regulation of pregnancy counselling and that we have a blog posting that is linked to that. Take Debbie Garrett of the Australian Federation of Pregnancy Support Services. We have had some very rigorous debating happening on the blog. Debbie Garrett was one of many people—but probably the most expert—who actually posted. She posted her organisation's viewpoint. We actually contacted the Australian Federation of Pregnancy Support Services before we initiated this campaign and spoke with them. All we are saying is that it is not regulated, that these are cases of things that have happened and that have been submitted to you, and that there is a bill there right now to say let us regulate it, so let us support it.

CHAIR—I thank each of you for your appearance here today, your evidence to the committee and the submissions that you have lodged with the committee. As I was sitting here looking up at the roof, I suddenly realised we have inspiration for our work from the motto on the ceiling that reads: 'Knowledge is the mother of wisdom and virtue'. Perhaps Senator Stott Despoja took her inspiration from the ceiling here; I do not know.

Committee adjourned at 5.03 pm