



**TRANSCRIPT  
OF PROCEEDINGS**

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**PRODUCTIVITY COMMISSION**

**INQUIRY INTO COST RECOVERY**

**MRS H.J. OWENS, Presiding Commissioner**  
**PROFESSOR J. SLOAN, Commissioner**  
**DR R. STEWARDSON, Associate Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT BARTON ON MONDAY, 27 NOVEMBER 2000, AT 10.10 AM**

**Continued from 22/11/00 in Sydney**

**MRS OWENS:** Welcome to the resumption of the public hearings of the Productivity Commission's inquiry into cost recovery by Commonwealth government regulatory, administrative and information agencies. I am Helen Owens, the presiding commissioner, and with me is my fellow commissioner, Judith Sloan, on my right, and our associate commissioner, Robin Stewardson, on my left. Public hearings have been held in Melbourne and Sydney last week and we will be holding further hearings in Canberra this week and next week, then by video in Adelaide and Perth. The scope of the inquiry is specified in the terms of reference. Copies of this and other inquiry documents are available on the table in the bar area.

The commission has three main tasks in this inquiry: to review existing cost recovery arrangements by regulatory, administrative and information agencies, to develop guidelines for the future application of cost recovery by the Commonwealth and to review cost recovery arrangements under the Trade Practices Act 1974 as part of the legislative review required by the competition principles agreement between the Commonwealth and the states and territories. Public submissions are vital if the commission is to be successful in these tasks. The public hearings provide the opportunity for participants to make oral presentations and discuss their submissions with the commissioners. This is an important part of the public inquiry process as the commission is also able to seek clarification and pursue particular issues in greater depth.

While we try to keep these hearings informal, we do take a transcript for the public record. Transcripts are normally available on the commission's Web site within a couple of days of the hearing and we will send each participant a transcript of their session's proceedings. At the end of the scheduled hearings for today I'll invite any persons present, who wish to, to make oral presentations.

Now I turn to two participants appearing together, the Electronic International Trade Services Pty Ltd and Direct Selling Association of Australia. Welcome. Could you please give your names and your affiliations with the organisation for the transcript.

**MR DELL:** My name is Les Dell. I'm here as the director of government affairs for the Direct Selling Association of Australia, and as the regulatory affairs consultant for the Cosmetic, Toiletry and Fragrance Association of Australia.

**MRS OWENS:** Thank you.

**MR FEIL:** My name is Martin Feil. I am the managing director of Electronic International Trade Services Pty Ltd.

**MRS OWENS:** Good, thank you for appearing today. We've received both of your submissions and have had time to look at them. Thank you very much for that. I know there are some common issues you've got, but possibly some issues of difference as well - not in terms of the way you're approaching it, but talking about different regulators and regulatory activities. Would either of you like to make any

opening comments before we proceed into some discussion?

**MR FEIL:** No, I don't think so.

**MR DELL:** I don't need to, chairman.

**MRS OWENS:** Good. What we might do is start off with the Electronic International Trade Services submission. There may be some issues as we're going along which will also affect you, Mr Dell, and you might like to participate, if you wish, during those discussions. Otherwise we will focus on some of the issues in this submission and then we'll turn to your submission, if that is all right. I think we've got 45 minutes, so we should be able to cover a bit of territory in that time.

I will kick it off and then my colleagues will come in. You've raised a number of issues, Martin, about the customs service, and those issues you've summarised on pages 2 and 3 of your submission. I think you've raised a few very interesting points. I think what I'd like to do is just probably explore at least a couple of them. I also would like to spend a couple minutes later - you've given us an attachment, appendix 4, where you actually comment on some of the particular questions from our issues paper. I thought that was a very useful response and very easy for us to quickly see what you wanted to say. But you have raised an issue about the fact that customs has cost recovery for imports, but not for exports.

**MR FEIL:** That's correct.

**MRS OWENS:** I'm not sure what happens in other countries; whether there are examples you can give where there are any customs duties imposed on exports, and if there are good reasons why government may not impose customs duties on exports, to the extent that the customs may want to have - my colleague said "fees". They may wish to ensure that there are no deterrents to export activity. I just wondered if you'd like to comment further on the point you've made there.

**MR FEIL:** I've had experience in the United States, Europe and in Malaysia and Indonesia. Indonesia has had a particular barrier inspection fee for a number of years, where they actually inspect goods before they are exported to Indonesia. I don't know from my own knowledge that a similar fee in relation to imports, which is fundamentally an electronic user fee - when I say that, I doubt that most countries are as advanced in the use of electronic technology as Australian customs. We've had a compile system since 1967, and that system is in the process of changing to a direct interface called Edifice and there is a trade modernisation bill before - I don't think it's before parliament; it's being circulated at the moment - that will actually change fairly radically the customs entry process.

It's really within that context that our comments are made; that the electronic user fee generates about \$80 million a year at the moment. It's intended to be a 100 per cent cost recovery process. There was a period of time for probably about four or five years in the early 90s where customs actually accumulated, I think, about

5 or 6 million dollars in excess charges above their costs. There was a considerable debate at that time about that excess, because they wanted to give the excess to Trade Gate for use in the development fund that they've got. They didn't do that ultimately. They paid an additional amount of money, I think, to the Department of Finance to actually reduce the amount of their finance debt in relation to technology. I'm not quite sure of the ins and outs of the Department of Finance's treatment.

Basically that sum of money is something that has been charged to a greater or lesser extent for most of the past 10 years and it is a charge that will be subject to considerable attention, I think, if customs moves from a transaction-based approach to a periodic approach. By that I mean that nearly all major companies, or nearly everybody can deal with the Tax Office on a periodic basis, where you pay your taxes monthly or quarterly or annually, or whatever it might be, but with customs you actually pay the duty and whatever other charges are involved every time you have a transaction. So there are actually 2 and a half million or 2.6 something million customs import entries and there is a fee charged in relation to each of those entries.

If it happens, and my bailiwick is sort of the bigger end of town, if it happens that most of those companies which contribute most of the imports are moved to a periodic basis then there will be a real question about what level of fee, if any, should be payable on a user-pays basis, as a consequence of that change.

**MRS OWENS:** Can I just clarify, if we move to a periodic basis will that be just for big companies or is it going to be across the board?

**MR FEIL:** It's for things that are called accredited clients. To be an accredited client customs is saying - and it's true, there's a self-assessment process within customs that - that customs would have to be happy that you had a good record with them, that you had appropriate processes in place. Somebody who only had 100 import shipments a year could quite possibly be an accredited client. Somebody who is bringing unaccompanied baggage back from a holiday in Europe wouldn't be accredited, and that might be their only interface with customs. Customs has got over 100,000 clients, but the very great majority of them, 99 per cent almost, would be individuals or companies that only have one interface in their life or possibly just a few shipments as a process with customs. So there is a very big group of small clients for customs.

**DR STEWARDSON:** Would the periodic payment make an attempt to estimate the volume or the number of items coming in by the particular importer and still charge roughly in proportion to the amount of business that it gives to the customs department? Is it just simply that you pay in one hit once a month, or a quarter, or whatever it is, rather than every - - -

**MR FEIL:** There would be two schools of thought. Customs has had a self-assessment process since 1989. They were the (indistinct) legislation amendments that were introduced by the Labor government at the time. Basically one school of thought would say that you put in all of the information that you would put

in as a customs entry, you put in in one consolidated reconciliation at the end of the month - so you provide the classification, the valuation, the origin, the quantity, the customs value and the duty that's paid, and then you'd reconcile it in a schedule. The other school of thought would be that that is not necessary to do. If somebody has got an efficient database process they can have all that information within the database, they pay customs an amount of money equal to the amount that they are due to pay from a compliant point of view, and that if customs wants to audit them they have the powers to do that under the Customs Act, and that they act in exactly the same way as the Tax Office; that they send somebody out to actually do an audit and see that the amount of money that was paid, was the amount that was properly paid.

**MRS OWENS:** If you are going to have an auditing process, you mentioned in your submission that perhaps if we go to this periodic entry approach that you may not need to have any cost recovery. Cost recovery would be zero. But if you had some auditing wouldn't it be okay for the customs to actually charge for the audit, or not?

**MR FEIL:** Customs already has an audit process of some substance. That's something they do anyway. If you like, the data issue is almost a side issue or a parallel issue. I'm sure that if customs decided to change their audit processes a lot of people who were accredited clients would be happy to negotiate some sort of process there, but I'd make the point that that is certainly not the case with the Tax office. You don't pay the Tax Office to do an audit on you.

**PROF SLOAN:** So this is really again a form of self-regulation.

**MR FEIL:** The system is a self-assessment system, yes.

**PROF SLOAN:** For periodic entries. So you are saying in that case that costs are being borne by those large clients, so the notion that there are indeed costs to recover is - - -

**MR FEIL:** Yes.

**PROF SLOAN:** Obviously there are kinds of overhead costs and the like, but variable costs.

**MR FEIL:** My understanding of the customs process as it exists now is that the cost that is recovered is based on studies that have been done using activity based costing processes and they've been done by people like KPMG. So they've gone through a reasonably rigorous process across, as I understand it, the whole of the customs service, so some of the executives' time is included in the customs import entry process time. So there has been that sort of discipline, if you like, brought to the cost number. In the future if they still had functions to perform that in equity users should pay for, then I suppose there's nothing to say that you wouldn't do that sort of exercise again, but you might decide that instead of \$80 million it costs \$8 million.

**MRS OWENS:** So in your first request, where you've said if there are no costs then

the user should pay nothing, that still applies if there are no costs, but you're accepting that if there are some costs then the user could make a contribution.

**MR FEIL:** That's right. There is, as I understand it, quite a debate occurring at the moment about the nexus between cost and what the user pays. That's a nexus that might be reasonable to continue with but it's a nexus that should be maintained.

**MRS OWENS:** Make it very clear what the nexus is.

**MR FEIL:** Rather than broken.

**MRS OWENS:** And you've made another very important point in that first request, that there would be no cross-subsidisation of small users by accredited clients.

**MR FEIL:** That's true.

**MRS OWENS:** So, again, if you got that nexus worked out so that those accredited clients are paying for specific things like the audit, if that was appropriate, that resolves that problem of cross-subsidisation, I would presume.

**MR FEIL:** To us this goes back to fundamental principles and, as you said, this is reflected in both submissions, and that is that there are issues like equity in user pays, just as there are issues of equity in taxation. The same issues apply here, and just as strongly as far as we're concerned. If people in equity should pay some tax, or should pay a fee, then that's what they should pay. They shouldn't pay significantly more or significantly less.

**DR STEWARDSON:** On that very point, you make quite a major point of the fact that importers are charged fees and exporters are not. Isn't there a great deal more for customs to do in respect to imports than there is in respect of exports?

**MR FEIL:** There is more to do. There's not nothing to do in relation to exports. There is an exit-entry, there is statistical coding, there are all sorts of issues that relate to exports. The workload is not as significant as the calculation and data collection process for imports.

**DR STEWARDSON:** So you would say it should be a fee, but a lesser fee for the exporter?

**MR FEIL:** Really, the principle we're addressing there was that the decision to say nothing for exports and a lot or relatively a lot of imports is almost a quasi industry policy decision; that exports are good and imports are bad and that doesn't necessarily have anything to do with the tax costs principles that we see as relevant in the exercise, that people shouldn't be making administrative decisions about not costing in one area and costing in another.

**MRS OWENS:** Yes, I tend to agree. I suppose it would be interesting to go back

in time and see how those sorts of systems are set up in the first place - what happened - and it's not just Australia where this is the case, I presume.

**MR FEIL:** I can tell you, if you're interested in that, how it began, because there was a body created called Trade Gate. The concept of Trade Gate was to create an electronic community of users in Australia, customs and Qantas and AQIS, and the Customs Brokers Council of Australia, and the airfreight forwarders, and the Maritime Service Board operations were all members of that and all contributed to it, and what they eventually created was an electronic portal and the purpose of that electronic portal was to allow people - instil a process of doing it by cable - to send data through the portal to actually achieve an electronic flow of data rather than sending people pieces of paper, like bills of lading and invoices and paper entries and all of those things. So that was sort of the beginning of the process and the question was how do you pay for it, and that's really where you've got a Trade Gate fee now which is for 99-2000, a fee of about \$8.7 million, but the other \$73 million is basically in relation to customs and AQIS.

**MRS OWENS:** You've raised another point which I think needs a bit of discussion, and that's about the consultation mechanisms. There's a Customs National Consultative Committee, and I gather it has got working parties and so on, and I was wondering - you, I think, are implying that that committee is not particularly effective. You have some concerns about whether - I think it might relate to your appendix - there is - you say about the composition of that committee, the actual importers are not involved in that committee, and we've got a submission from the customs service which seems to think that this process is working very well and it says, in terms of costing systems, "The full activity based costing model" - I'm quoting from their submission - "is provided to industry representatives through a number of forums. Industry representatives are provided with a full presentation of findings of biannual reviews and detailed analysis on the costing methodology utilised by customs to establish charges imposed for import processing activities," but you're basically arguing in your submission that this process is not adequate and you're concerned about the representation on that committee.

**MR FEIL:** I remember at one of the Customs National Consultative Committee's meeting, the representative of one of the organisations actually worked for Qantas and he said that it cost more for Qantas to send data from Sydney to Canberra than it cost Qantas to send data from Manilla to Sydney. So basically what I'm trying to say in relation to that is - and I'm a customs broker; that's one of the things that I am, and I've been involved over the years in fairly significant customs brokers practices - is that the people who were most concerned about customs issues are customs brokers and freight forwarders and airfreight couriers, and all sorts of service providers who earn their living from the process of acting, and they call themselves brokers but they're actually agents for the companies that they are dealing with.

In many situations there is no Australian importers federation; there is not collective, if you like, of importers that provide a collective view. There are bodies like the Institute of Chartered Accountants who represent a number of importers and

exporters and everybody else, but by and large apart from what I would call almost secondary membership, the people in the Customs National Consultative Committee tend to be representing - or don't tend to be, they do generally represent organisations or associations. There are a fair number of service providers in that group and then there are people like the Law Council of Australia and the Institute of Chartered Accountants - and they are probably about the only two I can think of off the top of my head that are sort of general groups, if you like.

**DR STEWARDSON:** It's more, I think, a matter of how much information you feel they give you and how much notice you feel they take of you.

**MR FEIL:** I suppose that's pretty much what I'm saying, that I think the CNCC is, to a certain extent, a placebo for importers; that through that process you can say that they're being given a lot of information but I would be interested to know how broadly that information is disseminated to the people who I consider to be the actual clients of customs, and that's the importers and the exporters.

**MRS OWENS:** We will ask customs about that particular question.

**MR FEIL:** Sure.

**MRS OWENS:** But in your appendix 4 where you're answering the question on public administration issues on this - this was the question with regard to cost recovery arrangements with which you are familiar - "Has the same agency both developed and implemented cost recovery policy?" and you've said, "Yes, as a general rule. There should be an independent mechanism for reviewing current and proposed cost recovery charges outside of the department," but the CNCC has got a working party that actually does that, but what you're saying is that the importers aren't necessarily represented on that working party and may not have any involvement in doing that.

**MR FEIL:** The \$30 an entry is a passed on cost for most of the service providers. It's not something that they pay out of their pockets. They put it as a disbursement on an invoice to an importer, so they've got no ownership or issue with how much that electronic user fee is because basically it's not something that they pay.

**PROF SLOAN:** Do you think we should give Les a go?

**MRS OWENS:** Yes.

**MR FEIL:** Sorry, Les.

**MRS OWENS:** I will just get this submission. Do you want to start off?

**PROF SLOAN:** No, it's just you've also raised some issues about ABS and AQIS, but I presume that your main focus is the - - -



**MR FEIL:** I think we are leading ourselves into a world of immense technology and as things change - I mean with AQIS there is an icon of service for the Australian community there and whilst we appreciate and are as conscious as anybody of the need to protect Australia from mad cow disease, or anything else, that we've also got an issue that costs should be transparent, they should be equitable. The people who are the stakeholders should have some say in their establishment and their structure and that that's important. With ABS we have got a different issue. We see that the ABS process - in our view anyway - has been hamstrung by the cost recovery process, because what happens is that instead of having significant external scrutiny of ABS statistics every time you want to do something with ABS you ring them up and they say, "It's going to cost \$316," and we send them a cheque before they start, and you don't really know what you're going to get back out of the process and you don't know if you will have to ring them up again and tell them that they didn't give you exactly what you wanted.

It seems to be a fairly cumbersome process of cost recovery in ABS. That's probably the main thing we would say there, that in the past there were a number of significant publications, like Imports for Home Consumption by Country, that were put out on an annual basis, and lots of industries and companies looked very closely at those statistics to try and understand just what exactly was happening within their industry, and there isn't that sort of array of excellent public documentation available now. Basically it's a matter of telling them what you want, paying up-front, and then seeing what you get.

**PROF SLOAN:** We have got a number of submissions on that.

**MRS OWENS:** We have got a participant after lunch who is going to be talking about this very issue. Before we move on to TGA and Les, AQIS - you said you were concerned about this lack of external scrutiny, or whatever. I think the words were something like that, but there is a process which AQIS uses, and I will just run through it. They actually have a process where they recommend fees or charges and they are reviewed by what's called an Industry Charging Committee - that may not be it's exact title but that sounds like a consultative committee. If they reach agreement it then goes to the minister. If there's a significant impact on business there will be a regulatory impact statement prepared, so that it will go to the Office of Regulation Review, and then those fees and charges are reviewed on a biannual basis. I mean on the surface that looks like quite a good process. Are you saying that that sort of process is not - - -

**MR FEIL:** I wasn't attacking that. I think what I was trying to say in here particularly was that we've got a concern that if they ever start to outsource AQIS functions, that there will be a real issue from a community - not environmental safety but industry safety perspective. I mean this is the issue that we've had in New South Wales, with problems with the water and all of those sorts of issues, that at some stage or other if you're really dealing with AQIS you need to look at public interest perspectives a lot more carefully than cost recovery from particular users. We think there's a very significant issue there and that one of the issues that could arise if AQIS

outsources some of its functionality would be a very significant issue of the public interest.

**DR STEWARDSON:** You mean that either the standard of assessment might fall or the price come up, or both?

**MR FEIL:** Possibly both.

**DR STEWARDSON:** But it was mainly the standard of assessment.

**MR FEIL:** The standard of assessment was the real issue that we saw in relation to AQIS and the worry, I suppose, in terms of the moneys that they're collecting at the moment, and that that just doesn't be considered to be yet another income stream for privatised business and that it really does need to reflect what AQIS is set up to do and what it has achieved in a very fundamental way in Australia.

**DR STEWARDSON:** Are you just expressing a concern in principle about outsourcing to private industry or are you expressing a concern based on operators that you think it might be outsourced to, because what you're saying is really quite contrary to what a number of people have said to us, that the efficiency of the regulator - I don't think it has been specifically said about AQIS but about other technical regulators - could be improved by outsourcing.

**MR FEIL:** That the efficiency could be improved?

**DR STEWARDSON:** Yes. So have you gone to a very specific concern or is it just the concerns of it in principle.

**MR FEIL:** It's a concern in principle but I'm also a licensed quarantine person, in terms of their provision, so I've had a fair amount of contact with AQIS. I've been involved as recently as in the last month in the apples fire blight issues, so there are real issues there. Our submission at the moment is a submission in principle. We would hope that we can add to the submission as we see comments from other people and we will talk a bit more about that, particularly with the TGA, but basically we're expressing a concern in principle about that and we would want to look very closely at outsourcing proposals that suggested that there was a significant cost efficiency from that outsourcing.

**DR STEWARDSON:** So you think AQIS is doing an efficient technical job?

**MR FEIL:** Yes.

**MRS OWENS:** I'm not sure what the prospects are. You talk about privatisation of AQIS and I'm not sure whether that's in prospect or that's a real issue or not.

**MR FEIL:** We are drawing a line in the sand in relation to it, that's all.

**MRS OWENS:** Okay. That particular issue probably goes a little bit beyond our terms of reference - - -

**MR FEIL:** It just can be linked to the cost issue.

**MRS OWENS:** - - - to the extent that it's - - -

**PROF SLOAN:** It is an issue.

**MRS OWENS:** Yes.

**DR STEWARDSON:** Sorry, can I just be clear then. Are you concerned about privatisation of AQIS as a whole or about AQIS remaining as it is but outsourcing some of its assessment work to private - - -

**MR FEIL:** We would be concerned about AQIS remaining as it is and outsourcing some of its functionality and we would like there to be a considerable public debate before that occurs.

**DR STEWARDSON:** Thank you.

**MRS OWENS:** I think we probably should move on because there are some important issues in relation to TGA and I think that we've had a number of people talking to us now about the TGA, and there has been a lot of concern, which I think is expressed in the Direct Selling Association's submission, about the 100 per cent cost recovery. We have also been hearing similar stories about a lack of transparency. There has been concerns from people in the complimentary medicines area about the attitude to risk and that they're being regulated as if they are a pharmaceutical company. I think this is reflected in this particular submission, and I think that you've also raised the issue of the costs of compliance, which is also, I think - so you're not just concerned about the fees that you're paying for a service, you're concerned that it's all the things you have to do to actually - - -

**MR DELL:** The consequential costs I think become - - -

**MRS OWENS:** The other costs, yes.

**MR DELL:** - - - matters of almost equal importance, in fact, because of the TGA processes.

**MRS OWENS:** In terms of your particular interest, would you like to explain what the public good element would be, for example, from the cosmetics regulation?

**MR DELL:** The public good aspect from the cosmetic regulation is not a TGA issue, it's in our submission as a NICNAS issue.

**MRS OWENS:** Sorry, that's NICNAS, yes.

**MR DELL:** Yes, generally speaking, cosmetics, apart from the sunscreen products, are outside of the TGA area of operation, and cosmetics is in there as part of the NICNAS.

**MRS OWENS:** Is there a reason why you see that the regulation of cosmetics is not just going to benefit the companies or the consumers, that there may be a general community benefit?

**MR DELL:** Yes, I think our problem with NICNAS, Helen, is one of fairness and equity inasmuch as the NICNAS charter is concerned with the importation of chemicals; it is a national inventory of chemical substances. So its very nature is to do with the importation of chemicals. In cosmetics there is a chemical content, by definition, but the vast bulk of cosmetics that come into Australia are imported on a value added basis. They are almost in ready for sale condition. That's typically how they arrive here. The chemical content of an average cosmetic product would be something like 10 per cent of the total value of that value added pack. Heretofore, NICNAS in its charging arrangements have allowed a discount factor of 80 per cent which leaves 20 per cent to be assessed and accounted towards your annual level of chemical imports. The limit up to date has been \$500,000. Now they are proposing a new scale of charges which eliminates that discount factor, and there are - - -

**MRS OWENS:** Have they given a reason for eliminating it?

**MR DELL:** No reason that I can fully comprehend. I was at one of their public discussion meetings just a week or so ago, and it seems that they're aiming more for simplicity and they're aiming to increase the level of compliance which they're not happy about.

**MRS OWENS:** And increase the level of revenue, presumably.

**MR DELL:** They need to achieve a level of revenue to meet their costs.

**DR STEWARDSON:** You mean they're going to take out the 80 per cent discount.

**MR DELL:** They're going to discontinue the 80 per cent discount arrangement and assess the total cost of the unit.

**PROF SLOAN:** But it could be at a lower price to make it neutral, but you're suggesting - - -

**MR DELL:** No, it wouldn't be, it would be at the same price because it's the price for entry on the customs document that was discounted by 80 per cent. It's going to be that same price for entry that's now going to be assessed to determine the level of your chemical imports, notwithstanding the fact that on average 90 per cent of that value added pack is non-chemical. I mean, it's packaging and, in very many cases,

water. It seems to us to be moving right away from the NICNAS charter and it's going to create inequities in terms of cost to industry. We have a situation now in the CTFAA where members, because of the complexity of assessing their annual level of chemical imports because they are lost in these value added cosmetic products, what they tend to do is just ignore the whole system and pay the maximum annual registration fee, so that they don't have the cost of compliance. They're paying probably a lot more than they ought to be paying but they don't have the compliance costs.

**DR STEWARDSON:** Mr Dell, why is it going to increase inequity as between firms if, at the moment, the system is just an arbitrary 80 per cent discount from the table value and then - which presumably has some inequities and some products will presumably have 10 per cent of chemical composition and some 30 - and moving to not discounting but just taking the 100 per cent, I don't understand why that is going to be more inequitable as between firms.

**MR DELL:** What it's going to do is substantially lift the number of companies now that go over the \$500 annual import limit.

**DR STEWARDSON:** Yes, I can understand that.

**MR DELL:** A lot of small businesses are now going to be thrust over that threshold.

**DR STEWARDSON:** But are they proposing to keep the same thresholds and the same rates?

**MR DELL:** No, they're going to increase the threshold but we think they're not going to increase the threshold by enough.

**DR STEWARDSON:** So that's really the point.

**MR DELL:** Yes, sure.

**PROF SLOAN:** So they are not going to increase it by five on four, which is probably what they should do.

**MR DELL:** Yes.

**MRS OWENS:** Why do we regulate cosmetics at all?

**MR DELL:** It's not the cosmetics that are regulated. There are some regulations for cosmetics. There are some packaging laws, some ingredient labelling laws, but cosmetics generally are not regulated, it's the chemicals in them that are regulated.

**MRS OWENS:** So the costs of actually regulating those chemicals is really not going to be the total value of that cosmetic, it's only going to be the 20 per cent or

whatever really, isn't it?

**MR DELL:** Currently it is, but they're proposing now to take that discount away.

**MRS OWENS:** No, I'm saying that the cost to the organisation - to the extent that charging in some way should be reflecting the costs of actually doing the work, the costs of doing the work is probably significantly less, and always has been, if they're just looking at the chemical composition.

**MR DELL:** Yes, the compliance costs.

**MRS OWENS:** There's nothing different happening in terms of the work they're actually doing, it's just that they're charging more for doing it.

**MR DELL:** If the threshold goes to an equitable level from half a million dollars to something that's equitably higher to reflect the 90 per cent issue, what you say is correct. It's the compliance costs also - like the TGA, it's not only the cost of the TGA fees, it's the compliance cost to the industry.

**MR FEIL:** But there is still a bundling issue there. Because you've got disparate sorts of businesses bundled together, if all you did as a solution was increase the threshold, then you'd have some companies that would probably miss out that are currently involved in paying.

**DR STEWARDSON:** Assuming that there's going to be some charge or levy, what sort of system would you think would be most appropriate? You don't like the current system and you don't like the proposed new one.

**MR DELL:** We have no particular complaint with the current system at the lower level. At the \$500 threshold with the 80 per cent discount factor - we think that should be more - but at that lower level, we're not particularly disenchanted. But it's at the upper level where you get people at the threshold who don't know - and just from memory I think the threshold is 5 million; yes, the first threshold is half a million, the next one is 5 - I mean, you get people in that doubtful grey area and most of our members have said to us, "We're not going to fool around with it." The minute you start to think that you're approaching 5 million, we just pay the maximum anyway and save our compliance costs, because it becomes a very expensive process when you're looking at value added products. I think that's the thing to remember in this cosmetic issue, that you're not looking at customs documents that specify chemicals, you're looking at a value added product that has lots of components in them.

**DR STEWARDSON:** But you do say on page 10 of your submission that there is no equity or fairness in either the present or the proposed tier structure. Are you resiling from that?

**MR DELL:** Only to the extent that the level of chemicals in the typical cosmetic product is so low - and we think probably beyond the spirit of the NICNAS charter -

that the chemical content of a cosmetic product is of such a low percentage value in a formulation, that there can be absolutely no issue of public health or risk, inasmuch as to have a chemical substance proved for use in cosmetic products is highly regulated in the US and in Europe where most of our cosmetic products come from, so it has been through a fairly exhaustive process to get into the cosmetic product in the first place.

**DR STEWARDSON:** So it's not really the charging system, it's the whole system itself that you're complaining of.

**MR DELL:** It's the concept, yes.

**MR FEIL:** It's partially the charging system too to the extent that where you have got thresholds that just talk about the companies with a turnover in excess of \$5 million, in the chemical industry you've got lots of companies who have got turnover in excess of \$500 million. So really you have got a very difficult issue there, and I appreciate the problem that NICNAS has but there is a problem about how many grades of cost do you include for registration there and how many tiers do you have in your structure.

**DR STEWARDSON:** That's what I was trying to get at and whether you think that it's a matter of finding the tiers or whether there should be a fixed fee plus a percentage based on tiers or what.

**MR FEIL:** We would like to come back to that issue later on in supplementary evidence if we can, because this, as I said, is as best we could make a statement in principle, but we see that there's a whole series of steps to go before the commission finishes its inquiry and we would like to try and participate in that.

**DR STEWARDSON:** I think that would be a useful one because presumably it's one of the things that we have to look at. If there is to be a fee, what sort of a fee structure should it be? Should it be very specifically just a fee for service or should it be something related in some vague way to partially or wholly to turnover, that sort of thing?

**MRS OWENS:** You have made three requests for commission recommendations on page 10, and the first one is that the government not introduce recommendations made by NICNAS as a consequence of the Allen Consulting Group. I gather that's those recommendations.

**MR DELL:** Yes.

**MR FEIL:** Yes, that's right.

**MR DELL:** That's where they have come from.

**MR FEIL:** To have a three-tier structure and the finish of the 80 per cent value

added rule.

**MR DELL:** Can I just say there, Helen, that some of these recommendations I think arise out of a noncompliance issue. NICNAS says that it has, or it's indicating that it has a compliance issue with lots of people that ought to be in the system and paying but aren't. Their problem is identifying them. We see that as an equity thing. We don't see that those in the system ought to pay more to subsidise those that voluntarily choose to stay out of the system which should be in there in the first place. So that compliance issue I think we see as an issue as well and I think that was part of the situation in the Allen report.

**MRS OWENS:** Yes. You've also made some requests for commission recommendations relating to TGA on page 7. The first one is you've said you'd like to see a separation of pharmaceutical public health and safety regulation, and compliance from the Therapeutic Goods Administration required for food supplements, etcetera. A few others have made that sort of point with us. Again, it's probably going a little bit beyond our terms of reference to think about how different aspects should be regulated because it's not an inquiry into regulation. But we're finding it's very difficult to draw the boundaries because when you're looking at the costing and charging arrangements, the underlying regulatory structures, the basis is there and it's very hard to divorce one from the other.

**MR FEIL:** That's really what we're trying to get at with those requests. Again, we'd like to submit quite a lot more evidence in relation to this. One of the things that we were thinking of doing was to actually survey our members and try and get some quite specific information and try and get some overseas information as well for the commission. We were hoping that if the commission wanted to, it could actually involve itself in our survey questionnaire development, because in that way we could probably give a much more - you wouldn't be asking yourself, "Why didn't they ask this question?" You would actually have an opportunity to express whatever questions you like.

I think what we're trying to say there may be difficult but it really relates to a fairly simple concept, and the simple concept is that if you have a real public safety issue that involves a lot of investigation and a lot of fees and a lot of cost, that it's a bit hard if basically the area that the DSAA are involved in and the CTFA is pretty straight through to the keeper type of exercise that doesn't involve anything like the same complexity; it hasn't got the same risk management issues. It's really quite a different problem altogether. We can understand why, for administrative convenience, people start to bundle these things together. But the fact is at a particular point in time someone should look at whether or not the bundle works or whether or not it's particularly disadvantaging some of the people that are in the bundle.

**PROF SLOAN:** We are always very keen to get additional information, particularly of that survey nature which collates the views of a variety of affected parties, so that will be very useful.



**MR DELL:** We're very happy to do that.

**MRS OWENS:** In talking to our team later that would be very useful. I've probably just about covered everything.

**PROF SLOAN:** I think that's fine. They're very useful submissions and, as I said, we're particularly interested in getting a broad view of participant responses to particularly the cost recovery issues but, as Helen says, the actual regulatory arrangements are part of the deal too.

**MRS OWENS:** Thank you very much. We will now break and have some morning tea and we will resume at 10 past 11.

**MR DELL:** Thank you.

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**MRS OWENS:** The next participant this morning is the Bureau of Meteorology. Could you please give your names and your positions with the bureau for the transcript.

**DR ZILLMAN:** John Zillman, director of meteorology.

**MR WRIGHT:** Bob Wright, manager of special services.

**MR STEWART:** Bruce Stewart, superintendent, hydrology.

**DR DOWNEY:** Bill Downey, deputy director, services.

**MRS OWENS:** Thank you, and thank you for coming this morning. I'm sorry about the slight delay. But we'd like to thank you very much for the weather today.

**DR ZILLMAN:** No charge.

**MRS OWENS:** I did say off the record before that if they charge us for today we'll charge them for all the bad days and I think we'll come out ahead. I'd like to thank you very much for the submission. It's a terrific submission and you've given us lots of attachments to go through. Often when you get the big submissions like this, you say, "Oh, hell, when am I going to get to read all this?" But I actually found it was just really a very interesting submission, so I thank you for that. I understand, John, that you've got a few opening comments before we ask you some questions.

**DR ZILLMAN:** Sure. Thanks very much, Madam Chair. I actually apologise for the length of the submission. It's much harder to write a short one than a long one, and we were running out of time so we would have actually preferred it to have been a little more succinct. Clearly the issues that the commission is addressing in this inquiry are quite central to the bureau and we're very pleased, obviously, to participate for a number of reasons, but perhaps most of all the desirability from our perspective of having a fairly general look at these issues which we've been grappling with in our particular domain for quite a long time and it will be good to see them addressed across the board.

To introduce the bureau's submission I guess what I hoped it might be useful to do is if I just very quickly describe what the Bureau of Meteorology is, its role and its operation, and secondly talk about the history of cost recovery for meteorological services in Australia, and delving a little bit into the international side of it because we are so internationally interconnected, and, thirdly, just to very briefly describe our current policy and practice on cost recovery and perhaps even come out with a few thoughts on the broader implications.

First of all, the Bureau of Meteorology in the context of your inquiry I see essentially as an information provider. We are basically the provider of the national meteorological infrastructure, where that means observation, networks, communication systems, warning system and so on, and the provider of a large range

of meteorological services, weather, climate, flood, oceanographic services, both for the public at large and the community at large, especially the warning services where safety of life is involved, but also for some major sectors like defence, aviation - where there's a significant public interest component but also significant benefit to the sector or to the major user group.

We also, as a result of government decisions over the past decade or so, do provide some commercial services on what we believe to be, as near as we can make it, a level playing field. We've existed as a Commonwealth statutory body since Federation. Meteorology is a function that's mentioned in section 51 of the constitution. We currently operate under the Meteorology Act of 1955, and it has a provision in it, section 8 of the Met Act that says, "subject to the directions of the minister, the director of meteorology may make charges for any of the above," where "any of the above" is all the things we do, the services we provide.

We have actually levied charges or had cost recovery of one kind or another since about the mid-50s, and I'll come to that in just a moment. A distinctive feature of the Bureau of Meteorology as Australia's meteorological service provider is that we're extremely tightly interconnected with the rest of the world. Weather forecasting and climate monitoring and forecasting is intrinsically a global process. To forecast the weather for Canberra for two days ahead, we have to have data from at least a third of the globe; to do it with any scientific validity, say, five days ahead. It's a global problem, so all countries need the complete global network of data to support scientifically based models and so on that enable you to predict the weather.

This means that all countries are interdependent and for essentially more than 100 years all the meteorological services of the world have operated in a globally cooperative system, where every country collects what data it can to support its own national needs, but also makes the data available on a free and unrestricted basis to the rest of the world. It's essentially a globally cooperative system in which every country puts in what it can, and from which every other country is able to then draw to support its national services. I think it's the only area of science in which there is actually a specialised agency of the United Nations which governs the coordination arrangements, the codes, the protocols, the arrangements and, in recent times, of course, has had to come to grips with the fact that in different countries different approaches are taken to funding and cost recovery and so on.

The bureau's charter is essentially linked to four key functions: the first is to operate the infrastructure, collect the basic data, process it, quality control it, so that, among other things, as well as to support weather services, there will be a national climate archive so that 50 years from now we can see if the climate of Canberra has warmed by .3 of a degree. The climate record is critical to policy issues associated with say climate change, but equally fundamental to almost all areas of design, of water resource systems, transport systems, coastal infrastructure and so on. That is one, data collection.

Number 2 is essentially provision of a wide range of real-time weather and

climate service, tropical cyclone, fire, floods, storm warning services and so on. Number 3 is essentially a research role. We are a research organisation as well as being a service organisation, and our role there is in fact to find out and inform the community about what makes Australia's weather and climate operate. Essentially our task there is to understand the weather and climate forces of Australia.

Our fourth function, a major component of our mission, is the international cooperation one. We're a 24-hour-a day, 365-day-a-year organisation, highly decentralised, in that the data collection has to be done out in the field. We use large numbers of observers - cooperative observers that are not our staff - that we pay a certain amount to. We have some 6000 volunteers, but we also have about 50 of our own staff stations that put up balloons and so on to collect data, and they can be as far afield as Willis Island in the Coral Sea or Antarctica or Giles in the middle of the desert, and so on.

The total cost of operation of the bureau - and the number, of course, changes as you go from a cash world to an accrual world - but in the present way that Commonwealth accounts are presented is about \$200 million a year cost of operation, although that includes things like \$14 million capital use charge which is appropriated to us just so we can pay it back. So in terms of a measure of the scale of the operation I'd say 170 or 180 million dollars a years is probably nearer the mark. The actual staffing of the bureau nationwide is around 1350.

Cost recovery in the bureau: I mentioned section 8 of the Meteorology Act which authorises it, subject to any directions from the minister. We began cost recovery mainly from civil aviation in the 1950s, and it was a fairly crude model then, but one that's actually still used in a number of countries, and essentially a third of the cost of operation of the bureau ought to be attributed to aviation. In some countries the national meteorological service was established purely for aviation and then provided a few public services as an aside. We didn't come that way. We were established long before civil aviation but as civil aviation grew, a figure of about a third seemed a reasonable sort of thing, and it was essentially negotiated between the director-general of civil aviation in 1950 and the director of meteorology in 1950.

In 1975-76 there was a major inquiry into the Bureau of Meteorology, a committee of inquiry, an independent external inquiry, and one of its major thrusts was the basis of funding and the appropriateness of various forms of cost recovery. That inquiry recommended a couple of things: (1) it said that the method of charging aviation was too crude and argued quite compellingly that the operation of the essential meteorological national infrastructure, since it served everybody, really was an appropriate function for government and that the aviation industry should pay essentially the incremental cost of everything that was done to support services for aviation - recognising, however, that there are a lot of quid pro quos involved even there - because we, the bureau, in forecasting for the public and warning of tropical cyclones and whatever, get data from the aviation industry and we draw on information from aircraft and so on.

That recommendation was accepted by government in 1978, so we moved basically to a model of operation where it was considered that the taxpayer funded our infrastructure and essential public services and major sectoral users, like aviation and defence and a few others, paid the incremental cost. That inquiry in 1976 also recommended that we should become involved in specialised commercial service provision, recognising that within the bureau, essentially a government statutory agency, there existed a huge reservoir of meteorological talent which could serve a whole range of purposes, from offshore operations to energy to whatever, and felt that there had to be some way of utilising that talent in the national interest, and proposed the concept of a commercial group for the bureau. That took a decade to get going. There were problems about how it should be done administratively. We worked over a decade with the Department of Finance to find a way of doing that, but we now have a commercial group, and in fact Bob Wright heads that. It has a turnover of 9 to 10 million dollars a year.

We had many inquiries into cost recovery of the bureau. In 1984 the Bosch inquiry in aviation cost recovery looked at the meteorological component and endorsed the model, said we were overcharging a wee bit but endorsed - or suggested our calculations gave us a little more money than they felt was quite appropriate, but endorsed the principle. In 1987 that whole system broke down temporarily when the Department of Aviation, who actually paid us and then collected the money from the industry, declined to pay us what had been agreed. There was an inquiry conducted by the House of Reps expenditure committee, which recommended that some of the bureau's offices - which had historically and were then still being billed to aviation - really were there serving the public interest.

For example, the weather service office in Alice Springs, it was argued was doing far more for the general community than it was for aviation. It was about half and half. Anyhow, they came down with an essentially compromised set of recommendations which led to us closing a small number of offices which had formerly billed to aviation, and transferring the cost of a number of other of our field officers to the taxpayer on the basis that they were primarily serving the local community. There had been extraordinarily heavy pressure brought on the inquiry, for example, from North Queensland where they fell prone to tropical cyclones - and elsewhere - to maintain the local weather office.

In 1988, our advisory committee, meteorology policy committee, and subsequently the government tried to bring all this together and gave us a set of 12 simple charging principles around which we constructed a moderately sophisticated overall charging regime based on the concepts of the infrastructure and public services treated as public goods, the specialised services to major identifiable user groups treated as, essentially, mixed goods - a substantial public interest component but also a substantial benefit to the user and the commercial component.

This intersected with the international developments in the early 1990s, when a couple of countries started trying to turn their national met services into businesses. When they tried to turn them into businesses, of course, they were then forced to try

and sell everything they had, and of course they couldn't then sell what they were already giving away free to other countries because, through international exchange, it was accessible back again. So there were a lot of tensions through the 1990s and that was largely resolved in 1995 through the World Meteorological Organisation in a way which strongly reflects the Australian model but is not identical with it.

Internationally, an extreme case is probably the United States, where the National Meteorological Service, our counterpart, has no cost recovery at all. It's all done as a public good but it doesn't do any of the commercial work. The other extreme is probably New Zealand, which operates essentially as if it were a business, albeit its major client is still government. About 60 per cent of its revenue comes from a contract with government.

There were yet more inquiries in 1995 and 1996, two studies into the bureau's operation, particularly looking at cost recovery carried out under the leadership of Prof Ralph Slatyer. At the same time, we found ourselves in the Federal Court with Prof Fels, the ACCC. It was a funny, inverted sort of set of arrangements because it was suggested that we, who had been the ultimate champions of the concept of free international exchange, were not exchanging data internationally. The point at issue was that the New Zealand Met Service, which was the corporatised service, being unable to get further business in New Zealand, was anxious to move into other countries.

This had sort of been an understanding in the international scene - one international met service, that we all cooperated, we didn't compete - and there was no reason to compete until the financial pressures came on. But the New Zealand Met Service's position was that, although in Australia we provide the public, the community at large with a comprehensive forecasting and warning and information service through the media - we treat the media as a partner in doing that - they believed that there was a potential market there and that they should move into it, so we were taken to the ACCC, I guess under section 46. That's an interesting little blip.

It was resolved, from our perspective, outside the court on the basis that it is for the government to decide the extent to which it wishes to provide a free service to the community in terms of a forecasting and warning service under the Meteorology Act, but as a result of that, whenever we do change the essential content of that free service, we now consult with the ACCC.

To come to the present situation, the Bureau of Meteorology is operating on the basis that our basic national meteorological infrastructure and public services are taxpayer funded and, in a cost of 200 million - round figures and plus or minus 5 or 10 depending on the accounting and carryovers and things - but in a total cost of 200 million, about 125 of that is operation of the basic infrastructure. About 50 million of that is essentially tied to all forms of public services - forecasting and warnings, the tropical cyclone warning systems, the bushfire, the flood, the severe storm and so on - incremental to the basic infrastructure. Then there's about 30 million that is cost-recovered from the users: 20 million from aviation, defence,

and a smaller group of other cost recoverables, and then about 10 million is commercial revenue. We have seen the charging model that we have as probably the most robust that we can put together in terms of its impacts and interactions with the national scene, but there are still a lot of ripples in terms of the international interactions, which we're trying to sort out on an event-by-event basis.

The only other comment I'd make by way of introduction is that I think our policy of free and unrestricted data exchange is fundamental to international meteorology. It's fundamental to Australia because, if we didn't get the information freely available - we, for example, a non-satellite-operating country, now have access to all the information from satellites that cost other countries about \$US1.5 billion a year to operate. If there were any system of charging amongst countries, I think as a country we'd come off a rather bad second best out of that, so we're very keen to hold the international regime together.

Our policy intersects also with the broader domain of scientific exchange, where we in the international scientific community, particularly of meteorology, oceanography and hydrology, are particularly keen to keep the flow of basic data for research as well as for operations going. That's my summary of where the bureau came from and where we stand on the cost recovery issues.

**MRS OWENS:** Thanks very much. I think that was, again, a very interesting little run-down. You did very well and you've obviously done it before, because you know the history.

**PROF SLOAN:** They have had plenty of inquiries.

**DR ZILLMAN:** We have had plenty of inquiries and we've been through the issues a lot over a lot of years, yes.

**MRS OWENS:** Your submission raised a number of quite important issues. One of the issues that you did raise - I think it was on page 15 - was this boundary between the basic product set, which is free, and basic services more generally, for which you have to charge. I guess it's a practical problem, but it's also a conceptual problem, as to when a basic service becomes a free basic product that goes into the basic product set. Has that caused you problems or concerns in actually trying to implement that policy? That came out of Slatyer, I gather.

**DR ZILLMAN:** Yes. We are having some difficulty in implementing it in the following sense: until the so-called Slatyer II report, we only had the concept of a basic service and specialised services and commercial services. The Slatyer II report reached the view that there may be scope for some more revenue generation if we defined the basic product set within the basic service, where the basic product set was essentially that which is made available through the free-to-air media and on the Internet and for which we accept responsibility for getting the message to the public, and the basic service was that broader set of information which the community is entitled to have because they have, essentially, paid for it through the data collection,

but for which there should be seen no obligation on us to actually get it to them.

We have developed a five-page set of guidelines for trying to draw the boundary between what is a basic product set and a large part of the basic service, recognising that that boundary is going to change with time, with technology, with political pressures and all those sorts of things. We've got some guidelines. We think they're about as robust as we could put together, but it's giving us difficulties. The guidelines have gone around within the bureau to help our officers, say, in Brisbane or Sydney to interpret how to handle a particular service, recognising we have thousands of individual services and they change over time. They are guidelines to try and ensure consistency nationally.

**MRS OWENS:** I don't think that's an important point, is it? I like your boxes and everything, but I think the unanswered question is: what establishes what goes in which box, really?

**DR ZILLMAN:** Yes.

**MRS OWENS:** So the principles are fine, but it's not actually always clear.

**DR ZILLMAN:** It's not always clear because there are so many different influences. For example, if a hailstorm hits Sydney, heaven forbid, and is not well forecast, the political or community pressures that will then come on for what we might now regard as an enhanced service to be regarded as basic are immense, and trying to keep a consistent set of policies going, with all of these coming in at different places and different times, in ministerial representations and everything else - ministers quite clearly, when told from a correspondent that it's absolutely critical that the cane-firing forecasts for the cane fields south of Cairns be available in the public interest because there are safety issues, say, "Well, yes, of course there is, of course they should," and then that tends to blur the line again.

**MRS OWENS:** It's an interesting issue really, because you claim in a sense that basic meteorological forecasts are a public good, but actually I don't think they are, in a way. We choose to make them a public good in the sense that I'm not sure they are characterised by high costs of exclusion. You can exclude them relatively cheaply: you just don't tell people. And the non-rivalrous nature of it, that's kind of a reason - because we don't really want competing forecasts. That's again a kind of policy decision. So it doesn't, to me, look like defence, it doesn't look like the environment, clean air, clean water, where it's very costly to exclude individuals from the use of that good. It seems to me that you can do that, actually.

**DR ZILLMAN:** Once they're out on the airwaves it's very, very hard to stop anybody accessing them.

**MRS OWENS:** Yes, but you can actually keep it all to yourself. It's how you're defining the product, really.



**DR ZILLMAN:** You can keep it all to yourself if you take a policy decision to not make a warning available. You could withhold it and give it only to one, say, radio station. Then the other radio stations will, presumably, listen to that one. Once it's out - - -

**PROF SLOAN:** It's gone.

**DR ZILLMAN:** Once it's out, it's gone.

**MRS OWENS:** Once it's out, it's gone. I understand that. But the actual cost of - you could decide to tell all the radio stations that it's going to be kind of warm today in Canberra, and leave it at that, and then get them to pay for precise forecasts.

**DR ZILLMAN:** Whatever we charge them, they will then say, for example, to New Zealand Met Service, "Can we have it at half the price?" and because New Zealand Met Service gets it all free from us through international exchange, they're happy to send it back at half the price.

**MRS OWENS:** Yes. But the point is, you're saying competition is inherently bad in respect of the quality of the product.

**DR ZILLMAN:** Competition is inherently bad for those things where, on a very short time scale - it would be dangerous to public safety if there were differing views about a tropical cyclone coming in on Mackay - "should hit north of Mackay". If somebody else is saying it should hit south of Mackay - I mean, communities will not tolerate those sorts of things. Where internal consistency both between products for adjacent areas and over time and through the different media is essential to public safety, we argue that competition is bad.

**PROF SLOAN:** Yes, but you then probably have to be accountable because you might become a lazy monopolist who actually misforecasts quite regularly but because there is no competition you continue to get away with it.

**MRS OWENS:** You would probably lose your job if you became a lazy monopolist.

**DR ZILLMAN:** Weather forecasters - I think I can say with some feeling - have enough public pressure on them that they won't make one more mistake than they possibly can afford.

**MRS OWENS:** You are quite visible just because you are out there with every radio station, publishing. They are out there telling the weather every day and it's in every newspaper, so people do know when you make mistakes.

**DR ZILLMAN:** Yes.

**MRS OWENS:** You are quite accountable to all the community.

**DR STEWARDSON:** More to the point, it's a very short-term feedback as to whether you were right or wrong.

**MRS OWENS:** Yes.

**DR ZILLMAN:** The short-term feedback is intense. If somebody goes out in the bay and gets a 30-knotter when they were told a 10-knotter the forecaster does hear about it over the phone pretty quick.

**MRS OWENS:** Actually my brother's best man works for your lot and at his birthday party recently the first thing he came up to me and said was, "I'm sorry we got the forecast wrong." I didn't actually know, but it's obvious he has kind of become paranoid over the years about it. It's a point to be made though, isn't it?

**DR ZILLMAN:** Yes. The serious answer to your question is that there is, particularly for aviation, intense international coordination of standards and standards of training, for example, of professional forecasters and whatever. It's through those sorts of mechanisms I guess we ensure that we don't become either incompetent or lazy monopolists.

**DR STEWARDSON:** Could you give us just an example to clarify some of these categories; the category you have called "mixed goods" in your diagram on page 10 - can you give us an example of that, please?

**DR ZILLMAN:** I would put the weather service to defence as - no, perhaps aviation is a better example - to aviation is an example of a mixed good. There is clearly a public interest, a public value in there being a set of weather information on which different airlines are flying in a consistent way, avoiding the same storms and whatever. There is a public interest in the general safety. You could certainly exclude users; you can exclude a pilot; you can exclude an airline, so in those terms exclusion isn't hard. The benefits come not just to the public interest in having aeroplanes not falling out of the sky and people confident to fly and all that, but there is clearly benefit to the individual airline in flying economically; not having to hold for two hours, or go to an alternate because the forecast was wrong.

I guess it's a mixture of economic classification and almost a policy overlay as to how you approach that. But I guess the approach we've taken there, just following on from that, is to say, "Well, because there is a public interest in not having airlines flying on inconsistent forecasts" - that's one where we provide under the auspices of the Meteorology Act in a consistent way to the industry and charge them the minimal cost we can charge - namely, the incremental cost of supply.

**DR STEWARDSON:** What about the private goods?

**MRS OWENS:** Before we get off mixed goods, I think defence is a more interesting case. Most people I think would accept that having a defence force really is a public good. The defence force is there to protect the community, to protect the

nation. Why is that lumped in as a mixed good? I can see why aviation is. I have a few more problems with defence.

**DR ZILLMAN:** I agree with you in that ultimately if you take the whole government system I think it is, but in the way that it operates within government and between departments - because it is essentially on a basis that the Met Bureau produce it and sell it to the customer, the Department of Defence - the weather service, I mean - then they are a beneficiary. They, as an organisation, are a beneficiary in the same way that an offshore oil operator is a beneficiary in a private sense. But defence, ultimately, is a public good itself, so yes.

**MRS OWENS:** Why don't we provide that free? On consolidation this is zero, you know.

**DR ZILLMAN:** On consolidation it's zero. It's just the regime of interdepartmental charging that's - - -

**MRS OWENS:** Do you do it to make sure they value what they require and specify what they require and the like?

**DR ZILLMAN:** Yes. It's an appropriate and valuable discipline. I guess we negotiate between us what they want, how they want it, where they want it. We say absolutely minimal how much it will cost incremental, and that's agreed and that's the basis upon which we provide it.

**PROF SLOAN:** So it is just imposing some discipline to an interdepartmental charging arrangement. Is that - - -

**DR ZILLMAN:** That's primarily it. Back to your point, I think ultimately it's a public good.

**MRS OWENS:** Yes, as Judith is saying, it's really partly there for demand management reasons.

**DR ZILLMAN:** Yes.

**MRS OWENS:** You have got some rationale on page 4 as to the charging incremental service production costs. That relates to civil aviation and defence.

**DR ZILLMAN:** Yes.

**MRS OWENS:** Those points there that you've made, for example, there are strong public interest reasons for ensuring that meteorological information used is professionally sound, internally consistent and so on - you've made that point.

**DR ZILLMAN:** Yes.

**MRS OWENS:** And the other points there are really more arguments for keeping some of this in the public sector rather than rationale for incremental service production costs to those agencies. I think those rationale I see as a public good rationale rather than the charging rationale.

**DR ZILLMAN:** Correct.

**MRS OWENS:** So the charging rationale is an interdepartmental deal. Hopefully, it's a means of managing demand from defence in some way. There's a price signal.

**DR ZILLMAN:** Yes. We have to some extent, I admit, tended to mix up the classification by public private good and the charging regime put in place, but have approximately matched the mixed good with cost recovery rather than the commercial.

**MRS OWENS:** Yes.

**DR STEWARDSON:** Private goods then - two things: one again, if you could give us an example, please; secondly, are these things all cases where you have value added to your basic service and is that sort of value added something that you have a comparative advantage in doing rather than the New Zealanders or the Americans, or could they do it equally well? Are you under cost constraint in what you charge or competitive constraint in what you charge from, say, the New Zealanders?

**DR ZILLMAN:** Bob Wright has managed the bureau's commercial value added service provider operation for the last decade, so it's probably closer to the horse's mouth if Bob answers that one, if that's all right.

**DR STEWARDSON:** Sure.

**MR WRIGHT:** An example, I suppose, would be the service - and John put it before - that we provide to, say, an offshore gas or oil producer or explorer. In that particular case the sort of service we provide in terms of value adding would be to produce a forecast that is specific for a site and specific for a particular operation. That operation might change over time. Generally speaking, what the oil and gas producer wants is somebody to be there on the end of the telephone, under contract, so that they can always demand the service and they can provide scenarios. For example, if they've got choices about doing exploration or doing platform work - those sorts of things - where they can get expert meteorological advice that will impact directly on their particular application.

In terms of competition the value add that we provide and the way the commercial activities of the bureau have been set out virtually at arm's length from the appropriation fund - that part of the bureau - means, for example, the basic data we might use for the production of that value added forecast is available to us on the same basis that it is available to a private sector firm, be it either international or domestic. In the offshore oil and gas industry, for example, there are private sector

operators here in Australia that provide that service. Indeed, the commercial activities of the bureau are in effect in competition with that private operator - there's probably one; it's a relatively narrow area; there aren't a lot of operators. There's probably only 30 in total in Australia. Generally speaking, the operator in Australia is a Japanese-owned company, but it has offices here in Australia providing those sorts of services.

**MRS OWENS:** So there is, I suppose, some sort of Chinese wall between you and the rest of the organisation. You charge the rest of the organisation for any of the basic data that you receive, which you can then value add to and then sell your services. So is there any chance that your activities could actually jeopardise the public good activities of the rest of the organisation or are you sufficiently independent so that won't happen? Do you take resources from the rest of the organisation? Can you borrow people?

**MR WRIGHT:** Generally speaking we have a small core of people that are virtually permanent in the special services group and that group can grow, providing there is the demand there for the services. In terms of recruiting those people, we take some out of the bureau because there are, for example, professional meteorologists in the bureau and they are very good. I think, at the present time, about a third of our people we have recruited from outside the bureau. They tend not to be in the forecast area. They tend to be more IT people - increasingly, IT-type skilled.

**MRS OWENS:** Do you see that there will come a day when you'll be sold off, commercialised?

**MR WRIGHT:** I guess that's a possibility. We have tried to, in terms of the arm's length approach, to identify as best we can the full cost of operations, so in that respect it is a fairly self-contained group that could possibly be sold off. At the present time it provides a very valuable service and complements the full range of services the bureau provides, but it is separate.

**PROF SLOAN:** Can I go back to you, John. You mentioned in your opening remarks two kind of different models - the New Zealand model and the US model - presumably with Australia somewhere in between.

**DR ZILLMAN:** Australia fairly close to the US.

**PROF SLOAN:** Fairly close to the US.

**DR ZILLMAN:** Fairly close.

**PROF SLOAN:** What is wrong with the New Zealand model? Economists kind of think that looks rather nicely transparent, you know, that the government purchases what it regards as the public good element of the service and then the organisation is free to do what it likes.

**DR ZILLMAN:** What is wrong with the New Zealand model is unfortunately that it works to undermine the free and unrestricted global exchange on which we all so much depend, because they seek to turn into commercial property that which the global community needs to remain as essentially public good information. New Zealand, perhaps more than any country, has forced us almost to the verge of a global meteorological data war and we - - -

**PROF SLOAN:** Data war?

**DR ZILLMAN:** Data war.

**PROF SLOAN:** Like a kind of civil war?

**DR ZILLMAN:** Yes. We worked our way back from that but it almost threatened the breakdown of international free exchange and, as I said, as a country we certainly would suffer enormously if that were to happen.

**PROF SLOAN:** Okay. So that's the key, isn't it?

**DR ZILLMAN:** Yes.

**PROF SLOAN:** The US model presumably at the other end, where - although presumably there is quite a market of private providers providing those specialised services, so it's not done by their Bureau of Meteorology itself.

**DR ZILLMAN:** No. In the US the policy is that the US government sees itself as fully responsible for providing all those services that relate to the safety of the community and not one bit beyond that. Any of the value added services for particular users they see as private sector. There is about a \$430 million private sector meteorology industry in the US, alongside about a \$US4 billion operation if you look at the cost of their satellites and whatever for the public good. It's about a tenth.

**PROF SLOAN:** So they have, in a sense, implicitly chosen to hive off their - - -

**DR ZILLMAN:** They have hived off their bulk.

**PROF SLOAN:** Yes. But presumably in a market that size you can have quite a dense market structure.

**DR ZILLMAN:** Yes.

**PROF SLOAN:** Which is probably not true here.

**DR ZILLMAN:** When we established our commercial group and decided to do it as separate financially decoupled, we gave it a secondary objective of contributing

overtime to the build-up of a professionally sound private sector in meteorology. So if Bob errs, he's expected to err on the side of favouring a job going to the private sector rather than to himself. That is not terribly easy, if you are really entrepreneurial, but we saw that as the appropriate national policy.

**PROF SLOAN:** Yes, you have that in your submission, I think.

**DR STEWARDSON:** How do you know and how do we know that in the sort of model that you have, that America has, almost any of the models other than New Zealand, that in fact you're doing the right amount of work; that you're not doing unnecessary research for your job - that sort of thing?

**DR ZILLMAN:** One of the things that I guess we're trying to do through the World Meteorological Organisation at the moment is to get a better framework for answering that question than we have historically, by actually looking at the marginal benefits and costs of various changes in investment in science, investment in networks, and so on. There are a number of individual case studies, but we don't have a sufficiently robust methodology or database to say that we can do that to the satisfaction of the economics community. You spoke with Prof John Freebairn. It was partly to work towards that that we asked him to become involved in some of those issues and we worked on it.

We have, however, approached this very much from a scientific technical operational perspective through a number of global experiments over the years, where we look at some done with real data, some done with artificial data, where we look at the added contribution that more dense networks, more powerful models, bigger computers make to forecast improvement. Then essentially it becomes a value judgment and a political judgment of how much below what the state of the science will permit that we as a country are willing to tolerate in terms of the quality of service. For example, we failed badly on 14 April 1998 to forecast a hailstorm that hit Sydney, Australia's costliest ever natural disaster. The forecaster made a call that the storm would go off the coast. It didn't.

Even with the wisdom of hindsight, we're still not absolutely certain that if we'd had every bit of modern technology that exists in the US that we could have got it right. However, the pressure on us to get it right does present us with a question of, "Okay, should we now for community" - Sydney is an important community; all those things - "invest at least a little bit more towards protection of Sydney from severe storms by investing in, say, US style Doppler radars?" Our answer at this stage is we don't think we, in all conscience, make the case, but we are working at it on both an economic basis and on a technical scientific basis to see whether that case can be made.

**PROF SLOAN:** Of course, cars aside, what difference would it have made - and assuming you could have got most cars under cover, which presumably you couldn't - it wouldn't have made that much difference, would it?

**MRS OWENS:** People couldn't have protected their houses and the windows - - -

**PROF SLOAN:** Not really.

**DR ZILLMAN:** No.

**PROF SLOAN:** But that's not the point. It's politics, isn't it?

**DR ZILLMAN:** The avoidable damage to houses was almost zero.

**PROF SLOAN:** Yes.

**DR ZILLMAN:** The avoidable damage to houses and crops is zero; to cars and moveable objects is significant. Aircraft, for example: a lot of aircraft were damaged. It's part of the integrated judgment that you have to make on how much to invest in a warning system, depending on how much damage there would be. It is very different with tropical cyclone warning systems; for example, shutting down an offshore operation or a ship coming into Karratha - immensely expensive - or people's safety of life in a tourism resort on the coast - immensely important there that people get good warning. That's where we tend to invest more than in the areas where the avoidable damage is small.

**MRS OWENS:** I suppose with Sydney you could almost go to the Sydney Council and say, "We could introduce this technology. It may make everybody feel safer. The avoidable costs potentially could be this," and maybe have some sort of partnership arrangement.

**DR ZILLMAN:** Over the years when we've sought cost-sharing and things like that with state and local government, their response has usually been very clear and very strong - meteorological service provision is a Commonwealth function. It's fuzzier in the area of flood warning, where you can argue that that's as much a state and local government function as it is Commonwealth, and actually in that area we have put in place fairly sophisticated cost-sharing arrangements for flood warning systems. Bruce Stewart has very much been involved with that, where we have state committees that work out what the relative contribution should be from the Commonwealth in our area of expertise, versus a state government in terms of data collection and so on, versus local government in terms of dissemination of warnings and so on.

**MR STEWART:** Just to add to that, it comes back to again, as John was talking about before, the type of event. If you have a flash flood warning situation where you need to get information out quickly, then those are usually better operated on a local basis and/or locally orientated versus the larger catchment areas where the warning times are longer and those sorts of things. They tend to then come back to more of a bureau responsibility. That's the thing that's used there from that kind of thing.

**PROF SLOAN:** I was intrigued by your paragraphs 13 and 14 under the topic "public administration". Obviously whoever wrote this had kind of a sense of



humour. This is page 6.

**DR ZILLMAN:** Oh, dear. That's an executive summary.

**PROF SLOAN:** Did you write that?

**DR ZILLMAN:** That's what it says.

**PROF SLOAN:** Let me read out one of the sentences which is:

The need to progressively replace sensible practical judgment and mutually acceptable quid pro quos with detailed decision rules in dealing with inherently fuzzy costing interfaces has added to the administrative complexity of planning management and service provision in meteorology.

In other words, that sounds to me as though it was really better when this was pretty rough and ready but in the hands of wise men.

**DR ZILLMAN:** And a fair few wise women, too.

**PROF SLOAN:** And women. This is a bitter blow to us, because what you're saying is that, "poo-poo guidelines. We can do this quite well because we have experience in the field." At the end of the day it's probably not that different. But there are considerable transaction costs, as you say, to all this.

**DR ZILLMAN:** Meteorology is a small and narrow area. The point there is that broad principles and the general philosophy works fine but, as it has been pushed more and more to having to defend each little decision and whatever, we find ourselves with transactions costs which really do far exceed the value of the process.

**PROF SLOAN:** I thought it was funny when I read it.

**DR ZILLMAN:** It's like a cri de coeur in the midnight horror coming from Perth at 2 am.

**DR STEWARDSON:** In practical terms, what sort of thing could we do, given we have to do something, that would be helpful to you in terms of our guidelines? One of the problems that we have is how general and how particular our guidelines are and if we were to merely say, for the sake of argument - we haven't reached a conclusion - "Public good should be paid for out of tax revenue and other things otherwise," that's a pretty general sort of statement and begs the question of, "What is a public good?" which we have been discussing with you for about an hour.

**DR ZILLMAN:** Yes.

**DR STEWARDSON:** If we get more specific, particularly given the broad range of organisations we're dealing with - it's not necessarily an easy thing, and I think you're

tending to say, quite nicely, that we could blunder on in ignorance of a detailed area, which is a fair enough comment - what sort of thing would you think we could do that would be useful to your agency and to others?

**DR ZILLMAN:** From where we sit the most useful thing is clearly to get the overall philosophy and policy, your guidelines, much more clearly formulated and understood than I believe they are in the Australian public administration system, or have been in the past. As we have blundered forward, or worked our way forward, trying to construct a reasonably rigorous framework, we haven't found a great deal of consistency or insight around the system to help us. We'd love to see that. But we would also like to see - and I think we put it in attachment C of our submission - a decade or so ago when we set down our charging principles, we had two principles that essentially said, "Don't try pursuing this to the absolute last detail where the transaction costs just far exceed any of the value, and do it in a way that promotes commonsense, working together, goodwill."

I guess we'd like to see that spirit left in, because as we've all got pushed more and more to document everything to the last bit of detail and find every last dollar that we can recover, we precipitate so many counter things. You know, where previously we've given somebody a bit of data for free, no problem, it wasn't probably part of the basic service but we gave it to them for free, and we thought, "Okay, we've got to now charge," and they say, "Oh, and by the way, you know how we've been looking after your equipment at so-and-so for you for the last year, that's now chargeable," and it gets silly.

**MRS OWENS:** It gets silly. It's one of the Austrac things, isn't it? They were into that - that there are quid pro quos in the process, but if you get too formal people might say, "Well, you know, if I'm paying for this, I'm not giving you back anything."

**DR ZILLMAN:** Yes.

**DR STEWARDSON:** You've thought a lot about the cost recovery business in your area. There are a number of, broadly, information agencies which seem to have somewhat similar characteristics - the ABS, AusLIG- and others - where there's a basic product which is more or less a public good and the qualification is sort of one that you had the discussion with Prof Sloan a little while ago. But where the good is probably seen by the government as being good for the public, and by the agency is quite passionately seen as being good for the public - in your case, storm warnings and so on would fairly clearly, I would think, fall into that category - but a lot of the agencies feel that quite passionately, I think.

Then many of them, as you do, charge for access, just the access bids, and then they also charge for value-adding services, as you do. There seems to be a fairly nice parallel. Do you see them as all sort of falling into that same pattern as yours? Do you see any differences? I'd like the general question, but also one specific difference - a small one - is that some of the agencies have customers who are not in a very commercial situation and who find it difficult to pay a full commercial fee for a value

added service - university research people, for example - and they are treated in various different ways by organisations. A sort of specific question is: do you have that sort of a customer and how do you deal with them? More generally, do you feel there's an almost exact analogy with the other agencies?

**DR ZILLMAN:** We have exchanged notes a lot with ABS and AusLIG and so on over the years in their various incarnations and in particular we worked very closely with AusLIG. We developed some of our earlier policies together when we were actually in the same portfolio, and Bill Downey is on an AusLIG Commonwealth spatial data committee that looks at the issues of cost recovery for basic environmental data. Similarly with ABS, I guess, we've tried to develop our policies as nearly as we can in collaborations, in consultation with them. I see a lot in common.

One area you've hinted at where I see us as a little different is in the time perishability of some of our most public good-like activities, where there really does seem to be a strong obligation on the bureau, on the government agency, to make sure that the community aren't hit by a tropical cyclone or whatever. The time element there is absolutely critical and that's where we have always taken the media as our partner. The US have many of their own dissemination systems. The US weather service operates its own weather radio that anybody with a \$10 radio can contact any way at any time. We figured we couldn't afford to set up such a thing over Australia so we've put a huge effort into enlisting the media as a partner in getting the information across and it's because of the time perishability.

There are special users of our information, the research community. There are a number of subcategories, but the meteorological research community that are basically looking at the mechanisms of weather and climate are in universities and other research agencies. The products of those research clearly feedback to benefit our capability for service provision. In those situations we would either make everything available at cost of access - which it normally is anyway - or if we believed there was a significant quid pro in terms of a student that might then come on and work for us or something like that, we would find a way essentially of making it a joint project and giving data, essentially data and information, for free.

In the situations where we're working together in the national interest the Met Bureau and the Bureau of Resource Sciences clearly have in our portfolio a shared mission in briefing government on the state of the drought, or something like that. In a sense when we're doing something on a shared basis like that we would again find ways of doing it with sufficient quid pro quos. Those quid pro quos might in fact be that they come and give a set of talks to a conference we organise on drought, or something like that. I guess there's a bit of flexibility there but the overriding principle is where it's contributing to research, particularly research that's in the interests of our own operations or a mission that we share with other agencies, we essentially look to minimise the cost to those who seek the data.

**MRS OWENS:** Can I ask you about technology. You make a point on page 6, on the same flight I suppose from Perth, but it's actually an important point that you've made; that there could be technological advances where there's a net benefit to the community. What you're arguing there is that you may want to expand your range of services to the community - what you define as your public good meteorological data - and basically provide that technology at zero or near zero incremental cost, as you've argued here. What happens if you're in a situation where you go to government, you want to actually get that technology funded, but you just don't get a budget for it? What do you do then? Do you just not introduce it? It puts you in a bit of a difficult position, doesn't it?

**DR ZILLMAN:** Yes, I guess we take the position that in going to government, "This is the level of service we can provide to the community for the following resources," and if the government says, "Well, yes, that would be nice but your resources are somewhat lower," then I guess we do our best to provide - well, we do do our best to provide the very best we can with those resources. But the specific point here is that some of the technologies we now have, the models we run - whereas once we would run a computer model that would become guidance for a forecaster who would sit with some charts, output from the model and virtually write or type a forecast for Sydney, Parramatta, Newcastle, Coffs Harbour - and every new forecast required a more taxpayer-funded weather bureau person to do it - we are on the threshold of a situation where with a bit of finetuning the computer can virtually present a forecast for Canberra, for Queanbeyan - a forecast for any point you like to pick over Australia, at virtually no extra cost. You will still have people of guiding the models and correcting the models in a general sense but you can essentially automate the production of a maximum temperature forecast or a rainfall forecast or a wind forecast with zero extra cost.

**MRS OWENS:** You're not going to be tempted to try and charge for that, even though it's a zero incremental cost, and raise a bit of revenue?

**DR ZILLMAN:** That's a tricky philosophical policy issue. If the government has to operate the infrastructure to provide the community safety and warning service and if that infrastructure can, for no extra cost to the taxpayer, serve the needs of a whole lot more people at their local point, do you or don't you withhold that from them in a charging non-charging sense? It's a tricky policy issue which different countries have taken different stances on. The US has taken the stance that we cannot, we must not withhold anything that could be provided to the taxpayer. In a couple of European countries they take the view that if somebody is going to benefit from that it's immoral for them not to contribute at least a tiny bit to the total cost.

**PROF SLOAN:** It's the issue of the distribution. You can't expect the news to be reading out 150 places in Victoria.

**DR ZILLMAN:** No.

**PROF SLOAN:** But there's probably no reason why we shouldn't be able to dial up

on the Internet and say, "I'm living in Maryborough. Can you tell me what the weather is going to be tomorrow?"

**DR ZILLMAN:** Precisely, yes.

**PROF SLOAN:** If there are no additional costs to the bureau in providing that then I probably shouldn't be charged.

**DR ZILLMAN:** Precisely, yes, that's right.

**MRS OWENS:** But increasingly some of the things you're now calling private goods - as things become simpler and the technology is there what you're now calling private goods technically could become freely available.

**DR ZILLMAN:** That's one of the difficult interfaces we have to manage, when something which - - -

**MRS OWENS:** Is that one of those fuzzy interfaces?

**DR ZILLMAN:** It's one of the fuzzy interfaces, yes. When something which we, the government funded bureau, simply can't provide now because we don't have the resources but a customer or user would benefit if it were provided and the private sector does it - when the time comes that we, the government funded bureau, can do it at no cost should we in the larger public interest make that information available or should we withhold or hold back from doing that so that somebody out there can make a living providing it?

**MRS OWENS:** Bob might want to just keep on selling that because it adds to his profitability in that unit.

**DR ZILLMAN:** That's right, yes.

**MRS OWENS:** So the temptation will be to keep it there even though the technology is now available.

**DR ZILLMAN:** Yes.

**MRS OWENS:** It's tricky. It's an interesting question. I don't know what the answer is. It's a dilemma.

**DR ZILLMAN:** It's almost a philosophical dilemma. Philosophical policy, almost moral dilemma.

**MRS OWENS:** Yes.

**DR ZILLMAN:** But it's almost a moral dilemma when safety issues are somehow

linked to the availability or non-availability of the information.

**PROF SLOAN:** But it's kind of why the airlines actually don't give away their empty seats, because arguably they should just give them away because there's absolutely no incremental cost, but the truth is they would end up undermining the integrity of the whole charging system, so you've got to be careful.

**DR ZILLMAN:** Yes.

**MRS OWENS:** I think the other technological change issue is the one you've raised - I don't know what page it is on, it might be earlier, page 6 or page 15 - you've got your financial management system in place and that's another form of technological change, which presumably over time is going to make it simpler for you to identify your incremental costs.

**DR ZILLMAN:** Yes.

**MRS OWENS:** You talk about the costing issues and how do you identify those incremental costs. It's always a tricky question. Then what do you do about capital costs and so on. You've got a financial management system you say that's now being installed in the bureau which hopefully is going to help resolve that problem.

**DR ZILLMAN:** Yes, that's right. The Met Bureau at the moment is caught between the old cash management framework and relatively crude accounting systems and movement to SAP. That's going to be a little painful, but when we get there I guess I'm optimistic that it will be much simpler and more efficient.

**MRS OWENS:** Can I just clarify something else; you've got the basic principles in attachment C you referred to earlier but you said they were brought in in about 1988.

**DR ZILLMAN:** Yes.

**MRS OWENS:** Do you still use those principles?

**DR ZILLMAN:** Yes, but they have been modified slightly following the so-called Slatyer II report to introduce the concept of the basic product set.

**MRS OWENS:** Yes, that wasn't there, but I found - apart from that - some of the principles seemed slightly internally inconsistent - like principle 6 and principle 9.

**DR ZILLMAN:** Sorry, which ones?

**MRS OWENS:** 6 and 9 in attachment C. 6 says, "Services provided to other government agencies as part of the joint fulfilment of shared missions in the public interest should be regarded as part of the basic service and should not be charged for." Then 9 says - maybe it's my logic, I don't know - "Charges for services provided to other government agencies in support of direct public interest missions should cover

direct costs and overheads only." I thought principle 6 said you shouldn't charge for them. I couldn't understand - - -

**DR ZILLMAN:** Principle 6 is shared missions.

**MRS OWENS:** Shared with the bureau.

**DR ZILLMAN:** Where it's hard to know whether it's our mission or theirs to brief government on drought. Principle 9 is where it's clearly their mission but they are doing it for the greater good and we just simply recover the costs.

**PROF SLOAN:** It's defence.

**DR ZILLMAN:** Yes.

**MRS OWENS:** Thank you. I was reading that in a plane this morning while I was eating breakfast. Have you got other issues?

**PROF SLOAN:** We had a high degree of comfort that the weather bureau, the Bureau of Meteorology, offered good weather forecasting services. Do you feel comfortable about it?

**MRS OWENS:** I couldn't work out whether it was going to be 28 in Canberra today or 26.

**DR ZILLMAN:** You got it from different sources.

**MRS OWENS:** In the Australian; both in the Australian I think.

**DR ZILLMAN:** We've got a problem there.

**MRS OWENS:** It doesn't matter. They're much the same once you get to that point it's warm and warmer, so it's quite nice. I think I've just about covered everything. I was wondering, is there anything else that you wanted to raise with us while we're here?

**DR ZILLMAN:** No, I don't think so. We really look forward to seeing your draft report and seeing how well we can match up our principles and concepts and things like that - but, no, I don't think so. Let me ask my colleagues.

**MRS OWENS:** I'm hoping we can address this problem of fuzzy costing interfaces but we will wait and see. Nothing else that anybody wants to raise?

**PROF SLOAN:** No, that's fine. I thought we could have run through some of the equations in your joint papers with John Freebairn, but we will probably leave that.

**MRS OWENS:** That does remind me.

**DR ZILLMAN:** I really would like to do that, if you've got the time.

**MRS OWENS:** Just before we do finish, in the last paper you gave us, which is attachment K - that is a Freebairn and Zillman paper and it hasn't got a date yet because I guess it hasn't been published yet.

**DR ZILLMAN:** It will be in the first issue of that journal for 2001.

**MRS OWENS:** On page 17 you are looking at institutional structure options and I was very interested - this gives you an opportunity to refer to one of the piles of publications that you've brought with you, John. You say one simple industry structure - this might be coming back to what Judith raised before - is to restrict the NMS to providing - what was NMS?

**DR ZILLMAN:** National Meteorological Service.

**MRS OWENS:** To providing public good, meteorological services including the basic infrastructure and general forecasts with full government funding and leave the production of value added meteorological services with private good and mixed good properties to private firms.

**PROF SLOAN:** That's the US model.

**DR ZILLMAN:** That's close to the US model. But the US weather service does actually provide the aviation weather service there. It does not provide, interestingly, the defence weather service. That is provided by a separate weather service within the Department of Defence.

**MRS OWENS:** Is that a problem?

**DR ZILLMAN:** In the US?

**MRS OWENS:** Yes.

**DR ZILLMAN:** Yes.

**MRS OWENS:** Because one of the big points you were making before is the importance of consistency and so on.

**DR ZILLMAN:** Yes. It has got a long tradition in the US. It produces problems that they are increasingly trying to address through what they call a convergence program of gradually bringing the two - it applies to their satellites, too - gradually bringing the defence and the civil into convergence and sharing forecaster training, sharing networks, sharing facilities.



**MRS OWENS:** Till it gets slightly closer to us.

**DR ZILLMAN:** Yes.

**MRS OWENS:** I was just interested in that observation in your own paper as an option.

**DR ZILLMAN:** It wasn't an equation though.

**MRS OWENS:** No, I wasn't going to be kind. Judith was being kind, too, and you could have given us any answer and we probably would have believed you. I think we might break now for lunch and we'll be resuming at 2 o'clock. Thanks very much for coming.

**DR ZILLMAN:** Thank you.

(Luncheon adjournment)

**MRS OWENS:** The next participant this afternoon is the Complementary Healthcare Council. Could you each please give your name and your position with the council for the transcript.

**MS JOHANSON:** I'm Val Johanson, the executive director of the Complementary Healthcare Council.

**MR BRYDEN:** My name is Paul Bryden. I'm project officer with the council.

**MR CROSTHWAITE:** I'm Allan Crosthwaite. I'm the technical director of the council.

**MRS OWENS:** Good, thanks very much, and thanks for coming this afternoon. We've received your submission and we have now received some supplementary evidence from you and I understand you'll take us through some of the material in that, because obviously we haven't read it, we're not that quick - or maybe my colleagues have. Maybe what we'll do at this stage is go back to you to provide some opening comments for us, and then we'll open up the discussion.

**MS JOHANSON:** Thank you, Helen. I might just start by introducing my team here, because it's an interesting combination of expertise and skill. I've had a fairly long experience in regulation of both foods and therapeutic goods and then moved over to work with the industry about five years ago. My colleague on the right, Paul, has had a very long career in the public service at very high levels and has been responsible for putting our submission together. Allan is actually from the industry, recently joined the CHC, so I guess he contributes first-hand experience of what the therapeutic goods legislation mean in terms of impact on the industry. I thought that might be helpful. If you have any specific questions, you might know which way to direct them.

**MRS OWENS:** We all thought that the submission was very, very clear.

**MS JOHANSON:** Good. Well done, Paul. I think that really is one of Paul's real skills, putting these submissions together. Thanks, Paul.

Today I would like the opportunity to add some further information that I believe is relevant to this inquiry. I'd like to start by just putting the CHC position clearly up-front. The CHC contends that 50 per cent of the TG activities - and that's actually based on TGA's own estimate - are not industry related but are public interest activities which should be properly financed by the government. The CHC industry is prepared obviously to finance those activities that relate directly to the industry. I might just add that we also seek greater transparency and accountability in matters relating to cost recovery that's imposed on this sector of the industry in regulating its products, and it also content that the regulation of complementary health care products under the Therapeutic Goods Act is inappropriate, resulting in unacceptable levels of compliance costs estimated by industry to be equivalent to 15 per cent of after-tax profit. That may not be directly relevant to your terms of reference of this

inquiry but certainly it's relevant in terms of the impact of cost recovery on an industry that does not fit comfortably into a very stringent regulatory regime for which it's paying the regulators to the tune of 100 per cent.

I think our submission clearly points out that we are the peak industry body representing complementary health care products, which include vitamins, minerals, nutritional supplements, herbals, homoeopathics and aromatherapy products. Our total membership is 671, of which 105 members actually supply or manufacture complementary health care products, and this membership accounts for over 85 per cent of the total industry in Australia.

I'd like to just also focus for a moment on the low risk nature of these products. This goes back to our comment about being very stringently regulated in a box that we don't fit very comfortably in. Over the last 10 years there have been three debts attributed to complementary health care products, of which two are now currently under dispute and if you put that into context a little bit the government statistics - and I understand they may well be the ABS but I'm prepared to be corrected on that - state that there are 11,000 deaths annually from prescription drugs, fully evaluated prescription drugs, 2.3 million food poisonings per year, and those include deaths as well.

Put in that context it's interesting, and I guess we were very encouraged to hear Mr Paul Cogle, director of the ORR within the Productivity Commission, suggesting that in fact in his view complementary health care products were at the very lowest end of the safety spectrum, followed by foods, and obviously the fact that we are manufactured under GMP, very high standards of good manufacturing practice contributes undoubtedly to having that high quality, low risk, but also the nature of the products themselves are low risk. On the other end, at the high risk end of the spectrum, lie the pharmaceuticals and particularly the prescription drugs.

It's interesting also I think to compare our regulatory system with what happens internationally. Most other countries, including the UK, the US, New Zealand, Canada and some European countries regulate and sell these products as food supplements without the need for evaluation or pre-market approval, and certainly we don't hear of bodies in the streets, so we would have to question whether the level of regulation and, as a follow-on, the level cost imposed on this industry can be justified from a public safety angle. There's also an international trend to establish a third category of regulation for complementary health care products or supplements, as they're called overseas. Canada has recently established a natural health products directorate on equal footing with both food and medicines, and a fourth, gene technology, but they're four separate directorates, each of equal standing.

The EU has just recently released a draft directive which has been through commission and parliament over there, in which they state that after viewing the regulatory arrangements that apply to these supplements around the world, they are of the view that these products fit somewhere between foodstuffs and medicine, so again they're looking at a third category. Japan also has recently announced a separate third

category for supplements. New Zealand of course already has a third category, so we would claim that Australia's regulatory system for these products is actually out of step with international practice.

The legislation, as you're aware, was introduced in 1991 and applies to pharmaceuticals and to prescription drugs. At the time it was introduced the clear industry expectation that this was going to be a light touch, a simple - almost a tick and flick system for regulating complementary medicines or complementary health care products. At that time TGA recovered 50 per cent of its operating cost through fees and charges. In August 1991, Peter Staples, who was then the minister responsible for this area, acknowledged that some of the TGA's are public interest activities and those were funded at that time by a government appropriation. He also advised parliament that these services are not undertaken at the request of industry but are performed in the interest of the public. There's an attachment there that I've provided which confirms that statement.

It's interesting also - I've looked at the figures, and in 1999-2000 the TGA estimated that the TGAL costs - that's the activities of the Therapeutic Goods Analytical Laboratories - for our sector of the industry were just on \$2 million out of a total budget or estimated cost of \$5.5 million, and it has been stated through various documents that will be in those I've given you today, that in fact TGA identified TGAL costs as being public interest, not service to the industry. So straight up-front there's \$2 million, almost half, getting close to half, of the CHC costs that the TGA has publicly stated are in fact public interest costs.

I've given you information there in your attachments showing how TGA itself has identified which 50 per cent of its activities are public interest and which are services to the industry. It's interesting to look at those, but I won't spend time now going through them. Also in 1996 they announced that the level of cost recovery would be increased to 75 per cent over the next three years to 99, but before we reached 99, in 97 the government announced that in fact the 75 per cent cost recovery would be moved forward one year; then finally we moved forward to 100 per cent cost recovery.

This year, fees and charges of the TGA were forecast to go up by 60 per cent for our industry, a very little time frame. I think that was advised to us in August and were intended to be implemented in January, so within three or four months we were facing a 60 per cent increase as a result of this cost recovery. We were able to negotiate with the TGA and managed to delay it by six months, which at least put it forward to the following financial year and allowed industry some time to budget accordingly. We also were able to keep the increase back to 39 per cent. That's still a significant impact on the industry and, as I've said before, it's been estimated by some of the bigger and perhaps more efficient companies in the industry that the fees and charges imposed under the TGA cost recovery now are equivalent to about 15 per cent of after-tax profit, which is quite substantial.

I've also made some inquiries of an international alliance on dietary supplement

associations in terms of international application of cost recovery and have been unable to find any other country that imposes 100 per cent cost recovery. Italy has recently introduced a fee for labels on what they call dietetic products, our CHPs, and apart from that, because these products aren't regulated under a medicine regime, there appears to be no cost recovery that I can identify at this time. It is expected that Canada will at some stage introduce some form of cost recovery, not expected to be 100 per cent, and likewise we expect New Zealand will introduce some sort of cost recovery when they establish a joint office with Australia with the TGA. Thank you.

**MRS OWENS:** Thank you. Do either of your colleagues want to add to that? No?

**MR CROSTHWAITE:** As a manufacturer, the 15 per cent figure there is extraordinarily high and it's a variable figure, it changes so rapidly, so you don't get a lot of time to adjust your product in the marketplace to the changes. It's a continual increasing of cost and the products become very expensive and it's therefore shrinking the market and causing the market to shrink.

**PROF SLOAN:** Some of the other agencies we've looked at actually have regarded a degree of servility in their fees as one of the features that they should aim for. There's been a rapid escalation in the fees as you've move towards 100 per cent cost recovery, but there's been a kind of rapid escalation and a kind of unpredicted escalation on top of that, hasn't there, really?

**MS JOHANSON:** That's one of the big difficulties, that it is unpredictable. There's sizeable increases brought in with fairly short notice and it's very hard to budget for in an industry that is already struggling to come to terms with such a stringent regulatory environment. I think the other impact is also very clear - and Allan was showing me some figures today confirming the advice I've had - that as a result of the last 39 per cent increase in fees and charges some of the bigger manufacturers, who you think would be able to absorb the increases more than the smaller ones, are actually cancelling whole ranges of products from the register so that the number of products on the register are falling, therefore the annual charges which go towards bringing in the revenue to run the TGA in fact are falling, therefore the money coming in will be less and therefore unlikely to meet the target. On top of that, the number of new listed products is also reducing. I'm not sure - - -

**PROF SLOAN:** But this is an important point, Val, isn't it, that the fees actually aren't related? It seems rather opaque what they do, but in simple terms it looks as though they figure out what the overall costs of operation are, make some prediction on the number of services that will be demanded, and strike the price. If the number of services is lower than they expect, then they put the prices up again, which of course has a bit of a perverse effect - - -

**MS JOHANSON:** It does.

**PROF SLOAN:** - - - because you're telling it's actually driving down demand for the service.

**MS JOHANSON:** That's right.

**PROF SLOAN:** But it's not then much related to the actual costs of the regulation.

**MS JOHANSON:** No. That's an interesting point because a large part of the fees or of the dollars - the revenue is brought in as a result of fees - - -

**PROF SLOAN:** Charges?

**MS JOHANSON:** Charges for keeping your product on the register, so you get an annual charge. Some people would argue that the products are just sitting there, nothing has to be done to them, it's all electronic, so why are we subject to an annual charge? In fact, you're right, Judith. What happens is the TGA identifies a purse of money that they believe it's going to cost to regulate this sector of the industry for the next year, then put it back to the industry to decide how that revenue is going to be raised. So we have the option of cutting out all annual charges on the basis that there's really no activity, or TGA activity, concerned with that, or very little, but then that same amount of money has to be raised from somewhere else, so the alternative is that you put up your application for putting a new product on the market.

**DR STEWARDSON:** Can you just refresh our memory, please, on a point of detail. The annual charge is a fixed charge and it's not related to the turnover or sales of the product in question. Is that right?

**MS JOHANSON:** Except for a certain number that fall below a threshold - very low-level turnover products that fall below a certain identified level. They are only subject to a \$70 per year annual charge, whereas all other listable products - and I'm just talking the low-level listable ones here - are subject to \$350 per year. So what happens is that if you put a new product on the market you are subject to a \$400 application fee to lodge your product electronically. Then you go to market and, within three months, you're suddenly hit with your annual charge, so within the first three months of having your product on the market you're probably up for \$750 per product. Some of our sponsors have 6 to 7 hundred products on the register and, of course, when a product first goes to market, the turnover is not going to be very high anyhow. It takes a while to build up.

**DR STEWARDSON:** Let's assume for the sake of argument - and I think this would be roughly right, wouldn't it? - that for a particular product, by the time you have the initial assessment and then the annual fee for five years, say, it comes to 2000 or whatever number it comes to. You're implying that in fact all the actual work by the TGA is in that initial assessment and there's precious little actual work in keeping the product on the register. Let's just assume that that total charge over the five years, or some particular charge, is the actual cost of the assessment - would your organisation prefer to have that burden spread out over the initial charge and then the annual one over five years or to have it all up-front in one hit?

**MS JOHANSON:** I would argue that there's very minimal work involved even in listing the product, because it's all done by self-assessment and electronically, so most of the TGA activities that apply to our sector of the industry, I would argue, relate to post-market vigilance and public interest activities in terms of laboratory work and other non-related industries. They're not related to industry, in my view.

**DR STEWARDSON:** So you're saying that the charge is really relating to things that you don't think you should be charged for at all.

**MS JOHANSON:** Yes.

**MRS OWENS:** How do they recoup the post-market vigilance work that they're doing? Is that through the registration charge?

**MR CROSTHWAITE:** That's a 100 per cent review of rates after they are on the ARTG. But that's not every product; there's an enormous amount of products that are sitting there that don't get a review.

**MRS OWENS:** But those ones that are reviewed, they charge for that review.

**MR CROSTHWAITE:** No, they don't charge for the review, but the percentage that are not reviewed compared to the ones that are is quite substantial. Once a product is on the ARTG and it's sitting there in a database and on a register, it also attracts increases in fees and charges, so you don't have that stability with your products. You've got a veritable cost that's coming in on your product and it can change at any time. In industry it is very hard to react and move that cost on to the top of the product. It may push the product at retail level into a new price bracket and you lose that product from the marketplace.

**PROF SLOAN:** I'm not minimising your other reform suggestions, but greater predictability would be a plus, wouldn't it?

**MS JOHANSON:** Yes, it certainly would, because it certainly would allow the industry to organise its affairs better. I can remember Chris Ellison saying that certainty for the industry is essential. We don't have certainty at all. Even though we organised or negotiated that 39 per cent increase last year, which came into effect 1 July this year, we've just recently received - I guess at the time we were alerted to the fact that future increases would be in line with CPI increases, and we've just received a letter to say that next year's increase will be equivalent or be expected to be equivalent to the CPI of the previous March quarter. I guess that's at least put us on alert and gives us an idea of where we're heading. However, in view of the falling number of products on the register and the falling number of new products on the register, I am becoming increasingly concerned that the fees and charges currently being imposed will not meet the budget required to regulate this sector of the industry.

**PROF SLOAN:** Are there other reasons why there might be a falling number of

products on the register or can we just trace this home to - - -

**MS JOHANSON:** No. I would say that, all things being equal, I would expect that there should be an increased number of products coming in, for two big reasons: (1) that we've had some new substances approved, and the 53 substances that have been approved over the last two years are actually the first new ingredients this industry has had since the legislation came into effect in 91, so that in itself should generate new products and new interest; (2) that we've just gone through a massive review of advertising arrangements. The review was intended to deliver a more flexible, less regulated environment which would allow better claims to be made, to advise consumers on the benefits and use of these products and, in my view, the outcome has been so costly, restrictive, complex and inappropriate that that's not happening.

I think over a six-month period they had an advisory group set up to actually provide advice on the new requirements, because they're so complicated. You either need a consultant - and even the consultants are having difficulty interpreting it - so you either need a consultant and pay the consultant or you use the advisory group to get advice on whether your claim is acceptable and whether the evidence supports it. I think over six months they had applications from 23 sponsors for 112 products. There's something like 14,000 products on the register. If that system was right, I would say there should be a flood of new applications wanting to make all these great claims that are now permitted, and it hasn't happened.

**MR CROSTHWAITE:** There also are hidden costs that don't get reflected into charges from the TGA - what it takes to comply with the regulations, how difficult they are, how hard to understand - and those costs are also added on to industry to comply with all the regulations.

**DR STEWARDSON:** Can you just remind us, please: when you had your 39 per cent increase, how many years before that was the last increase?

**MS JOHANSON:** We'd had an increase the year before, hadn't we? - because we were working towards the 75 per cent - and I can't remember exactly what the level was, but I can certainly get that information for you.

**DR STEWARDSON:** But the 39 per cent was still going to the 100 per cent. It was still part of getting to the 100 per cent, wasn't it?

**MS JOHANSON:** Yes, it was.

**MR CROSTHWAITE:** It's very hard to pass that on in the retailing of a product - impossible.

**PROF SLOAN:** You've got a double whammy, basically.

**MS JOHANSON:** Yes.



**MRS OWENS:** If you took out the amount to go 100 per cent - it's not 25 per cent, is it, because the companies weren't at 75 per cent?

**MS JOHANSON:** No, it was 66, I think.

**MRS OWENS:** Yes. So if you took that out, what was left was probably just around CPI? It's not reflecting any major cost increases within the TGA itself that you contract back?

**MS JOHANSON:** No. The TGA was very active, undertaking a lot of fairly costly reviews. They were within a fairly short time frame. There was a KPMG review, there was a review of the TGA administration of complementary health care products, a lot of consultants involved, and then the advertising review itself. So certainly over the last three-year period there's been a lot of activity in that area and that would account for some of the increased costs.

**MRS OWENS:** It would be quite interesting just to do a breakdown of what the 39 per cent is, if it's partly the moving from 75 to 100 per cent, partly just a CPI adjustment, cost increases relating to CPI, and partly all these other activities. It would be really interesting, because one of the things we are interested in is: what is the impact of these sorts of arrangements on the efficiency of these agencies? Are there incentives for them to become more efficient or less efficient? Are there costs going up at a rate that is higher than one would expect under other circumstances? To the extent that they're undertaken, basically, by the industry, to me there seem to be few incentives for them to maintain an efficient operation.

**PROF SLOAN:** Particularly if you're not charging for itemised service provision, so you're just kind of dividing through the budget, through what you anticipate the number of calls will be. I understand that if there's a shortfall, they then seek to make it up the next year.

**MS JOHANSON:** That's right.

**PROF SLOAN:** It's a kind of inefficient pricing arrangement to start with.

**MS JOHANSON:** Yes.

**PROF SLOAN:** But it may be still an agency focused on productivity and delivering an efficient service.

**MS JOHANSON:** It certainly doesn't take into account the impact of what those higher fees and charges are going to be - ie, less products.

**MRS OWENS:** But you bring this to their attention through the consultative arrangements, and that isn't one of the things that they factor in. They don't see that the end result of the pricing policy may be fewer products being on the register, less

activity; they don't look forward to the impact that may have on the community, is what you're saying.

**MS JOHANSON:** Yes.

**PROF SLOAN:** Would that not be seen as a problem, though, for them? Surely one of the objectives of the agency is to provide as large a credible register as possible.

**MS JOHANSON:** Freedom of choice of a wide range of good quality products?

**PROF SLOAN:** Yes, and the idea that the list is actually shrinking wouldn't - if you were the leader of this organisation, wouldn't you be a bit worried about that?

**MS JOHANSON:** Somewhat concerned, yes.

**MRS OWENS:** We haven't heard from the TGA yet, but one of the things that we could ask the TGA if we ever do get to hear from them is - and maybe they might respond, now that we're getting a lot of participants that have been making comments about the TGA, so maybe at this stage they might consider that this might be a worthwhile activity - but they may argue that some of the things that are no longer listed or the products that aren't being registered now are really not that important in the scheme of things to consumers because there are equivalent products on the market and that, as a community, we don't need to worry about those products that aren't there. I'm acting as a devil's advocate.

**MS JOHANSON:** Sure.

**MRS OWENS:** Would there be any argument along those lines? Have we got a reasonable range of products in Australia? Are we missing anything really important?

**PROF SLOAN:** You sound like a communist. We only need Weetbix, don't we?

**MRS OWENS:** Vegemite. Cornflakes.

**PROF SLOAN:** We only need unbranded cereal.

**MR CROSTHWAITE:** I think, given the opportunity with the amount of products that are out there and the innovation which is coming from overseas, that Australia would have enormous potential to expand the market. The market has enormous potential to grow, but the policy that the TGA is applying to the products or applying to the industry is dampening that down or stopping the growth of it, stopping the export potential. I think a lot of it also has to do with the fact that they don't have a very good understanding, from my side of it, of commercial constraints that are in the marketplace or the way to look at it from a commercial point of view.

As you say, if you're decreasing the number on the register, you're decreasing

the dollars turning over, so you're increasing your fees and you're dropping more people out because they can't afford to enter into it. You've got a vicious cycle that's happening there, that is commercially not acceptable, and if you increased your marketing and lowered your fees and brought more people into it, then you would achieve a much better result and grow the market.

**MS JOHANSON:** We're certainly aware of some of our members who have closed down and moved offshore and are now manufacturing offshore and mail-ordering back into Australia so that, I guess, they can circumvent the TGA legislation that way, because there is provision in the law to allow personal imports for your own personal use or that of your family. Certainly I know that some have moved offshore, some have moved to New Zealand, where they are able to mail-order back into Australia.

**MRS OWENS:** Have you got an example that you could give us at some stage of a company that's gone offshore?

**MS JOHANSON:** Yes.

**MRS OWENS:** They may say it's done for various reasons and they mightn't attribute it back to the operations of the TGA. It may be just one of the factors, they'd say, relating to the environment in Australia, but it would be very useful to have an example.

**MS JOHANSON:** We're also aware that some companies are actually setting up Internet sites from offshore. That's another impost or impact on those operators who are trying to operate commercially and legally within Australia. There are some issues there as well that are a direct result of (1) the stringent requirements and (2) the costs involved. There are two issues I would just like to touch on while I think of them: one is the large number - and I'm not sure what the latest number is but certainly in the thousands, maybe getting up around 6000 or more - products on the register that come in under this low value, low turnover category and therefore only attract a \$75 annual charge, whereas other products attract a \$350 charge. Some of the members who are paying the \$350 charge are concerned that they are in effect subsidising the low level, low value products. We argue that if the annual charge was going to be increased up to \$350 that should be across the board. I'm aware of one member who has actually got - not a member but an industry member - four and a half thousand herbal products, most of which would come in under the low level, low value. So there's a bit of an inequity there as well.

One area we haven't touched on is actually the cost of having new substances evaluated and approved. I made mention that until the last two years we actually hadn't had any new ingredients evaluated or approved because they had to actually go through \$100,000 plus evaluation of a prescription drug, even though those same substances are freely available across the Tasman or in US and UK - as foods. However, now that there has been a committee established to evaluate these substances, the Complementary Medicines Evaluation Committee, a process put in place and now a fee to have new substances evaluated - and it starts somewhere

around \$4300 - which may not sound a lot in the big scheme of prescription drug evaluation - however, when you take into account the fact that there's no patency protection on these substances, as well as the evaluation fee - there's a fee involved or a cost involved in putting a submission together, usually the use of a consultant, and there's also the potential for the TGA to ask for more and more information - once you get above a hundred pages then you're into the next evaluation fee, and it can go up quite rapidly, up around \$10,000 or more.

**PROF SLOAN:** So who pays for that - the first bunny off the rank, is it, basically?

**MS JOHANSON:** Either the first bunny off the rank, who might have maybe a window of opportunity amounting to three months before the next company gets their identical product on the market, or in several cases the CHC itself has funded a submission on behalf of its members. Those that have gone through have all been nutritional-type substances derived from foods and we haven't had one new herb through. It seems to me a great shame when there's so much evidence coming out - even Australian indigenous herbs have got fantastic oral history of use as to efficacy - fantastic results - but there's no incentive for a company to invest the large dollars required to have one of these herbs evaluated.

**PROF SLOAN:** Does that lead on to the point about the TGA being perhaps a rather unhappy home for complementary medicine? You talked about the Canadian model where they have separate directorates, including one for complementary medicine. Is there a problem with the TGA having a slight - I know there is a separate section and the like - but is there still a bit of a one size fits all mentality?

**MS JOHANSON:** We would certainly argue that there is. We work very closely with the TGA and I guess we're somewhat encouraged to be offered yet another round of regulatory reform. You said you were tired, or getting very tired of these continual reviews and the cost, the energy, the resources it takes, and yes, we did get some benefits out of the last regulatory reform but it's still like pushing a round peg into a square hole.

**DR STEWARDSON:** But notwithstanding that it's tiresome perhaps for you, as I understand it the talk now is of the TGA introducing the European classification. Is that correct?

**MS JOHANSON:** For our products; for devices?

**PROF SLOAN:** Some mutual recognition.

**DR STEWARDSON:** Maybe it's for devices.

**MS JOHANSON:** It's for devices.

**DR STEWARDSON:** It's doesn't affect your products at all?

**MS JOHANSON:** No. That's a classic because we've had several experiences where the TGA has gone off to find out what the comparable regulations are overseas but they go to the drug regulators. Our products aren't regulated as drugs, so therefore there's no ability to have mutual recognition because our products aren't evaluated overseas.

**MR CROSTHWAITE:** Mutual agreement on GMP for pharmaceuticals but no mutual agreement on GMP for low risk products as complementary health care products.

**PROF SLOAN:** What about the TICC? Do you think that's a valuable process that makes the agency a more responsive outfit and a more transparent outfit?

**MS JOHANSON:** I actually pulled out the TICC terms of reference before I left and I just can't find them.

**PROF SLOAN:** But you are a member of TICC?

**MS JOHANSON:** Yes, we sit around the TICC table. I guess it provides an opportunity - - -

**PROF SLOAN:** I love the acronym.

**MS JOHANSON:** Yes, I could be very sarcastic. From my perspective as a TICC member it provides an opportunity for the TGA to update us on the efficiencies that they've introduced on their proposed budget for the next year, what their priorities are. It does not give us sufficient information or detail to allow us to sort of drill down and find where the dollars are going. I think it has been made very clear to us that it's not intended for us to have detailed debate on the costing arrangements and funding arrangements of the TGA. It's an opportunity to have the big picture overview, but that's about it.

**DR STEWARDSON:** What would you suggest would be an improved form of TICC if you were designing it? How would you set it up so that the industry got the information it needed to make an effective assessment of what the regulator was doing, in terms of how efficiently it was doing its job? Also how would you make it that the TICC was actually paid some attention to - I get the feeling that you think it isn't - without going to the other extreme and having the TICC and the industry actually controlling the regulator, which would be undermining the whole independent regulator? Have you got any positive suggestions for a model?

**MS JOHANSON:** Having been a little facetious in my earlier remarks I should say that the TGA is in the process of providing more meaningful information. We have spent probably nearly a year identifying what further information we believe is required and what would help us to be satisfied that the system is more accountable. Certainly some key performance indicators and more detail on costing arrangements, where the dollars are going, just different types of financial reporting which they have

taken on board. So my expectation is that that will - certainly it's being addressed that it will improve and that there are steps under way to address those concerns. I guess time will tell whether that's going to provide the necessary detail to make industry feel comfortable, that they are in a position to feel confident they've got sufficient information for their needs.

I think that doesn't address the issue though that we believe - and I probably agree with the TGA's own assessment - that 50 per cent of what the TGA does is public interest and should not be funded by the industry.

**DR STEWARDSON:** But that's a separate issue.

**MS JOHANSON:** It is.

**DR STEWARDSON:** On page 22 of your submission you suggest that there should be, in effect, an effective TICC, but you also suggest that there should be a central agency that would be a sort of ombudsman for industry groups such as yours, to complain to about the cost recovery arrangements. Can you elaborate a little on why you think that particular model is the desirable one; is it because you despair of getting a TICC that would have any effective clout and you really need an ombudsman to run to, or what's your thinking?

**MR BRYDEN:** The concept of the central agency would be the Department of Finance and Administration. With 100 per cent cost recovery there's no interest on the part of the rest of the government as to what TGA is doing. There is no taxpayer's dollars involved. In fact, ironically, it would be a waste of DOFA's resources trying to make TGA more efficient because it's not affecting the budget outcome. When we say in the submission "central agency" that's what we're talking about. Most other government agency's departments do have an oversight of some kind of their budget processes, but that's not the case with 100 per cent cost recovery.

**PROF SLOAN:** They have argued they would, like it's in with the Department of Health, but I think that's an important point: what 100 per cent recovery does is it kind of moves the agency outside the radar screen of DOFA because they don't have that interest in cost efficiency, because it's not actually being funded from the consolidated budget. I think we should try and pin this stuff down more. You know, for example, that the TGA hasn't been subject to the productivity dividends that other departments in fact have. Wasn't there some benchmarking data around about the cost of the labs and there were some shadow prices out there in terms of similar creditable laboratories?

**MS JOHANSON:** No, I don't think that was our data but certainly we could look at it.

**MRS OWENS:** What about the audit office? They could always look at the TGA when they're examining the operations of the department. Have they done so?

**MS JOHANSON:** I believe they have. Certainly certain sections of the TGA, I believe, have been audited, the GMP.

**MRS OWENS:** So there are mechanisms in place already to review these sorts of bodies, but you're suggesting that something else is needed as well.

**MR BRYDEN:** In another submission to another inquiry we put forward the concept of a statutory authority, something along the lines of ANZFA, to get that broader stakeholder community of people involved so that the agency is reporting to a board rather than to itself, off-line as it were. I think there are plenty of examples. ANZFA is one, the Fisheries Management Authority is another where industry is involved but it is a regulator that regulates industry.

**MRS OWENS:** Yes, it's consistent with a recommendation we made a few years ago when we did our inquiry into medical and scientific equipment industries. We made a recommendation at that stage that TGA should become a statutory authority, and I think it was rejected by government. One of the other comments you made before is that maybe there's room for another regulatory body for this sector anyway and you would argue then that should be a stand-alone body.

**MS JOHANSON:** We would, to give the separateness. Our products are actually used in a different way from medicines. Pharmaceutical and prescription drugs are about treating and curing disease. Complementary health care products in the main are about part of the holistic approach to improving health and wellness and preventing disease, particularly chronic disease. While you're being regulated under a pharmaceutical framework you just keep being pushed into that very stringent, very restrictive, very costly regulatory approach that doesn't reflect the difference in the nature, in the use, in the benefit, and potentially actually reducing the cost of health care in Australia. But I would have thought there was actually a good incentive there from the government's point of view to encourage consumers to use these products. They are bought out of the pocket; they are bought out of after-tax dollars. They have now got GST imposed and yet we're still being hit by this very costly regulatory environment.

**MRS OWENS:** Can I come back to this proposal that you mentioned earlier, about going back to a 50 per cent cost recovery, which is where TGA started a number of years ago. That 50 per cent target was really relating to all its activities, including the pharmaceutical industry. You have said in your submission on page 7 that the objective of implementing cost recovery should be that there is a capturable commercial benefit and that any such costs should be recovered. For the goods that you're talking about, are there any where there are capturable commercial benefits? Are we talking about some products where there could be a patent imposed? And if not, why even 50 per cent, is the question?

**MS JOHANSON:** I think with new technology there are certain processes that can be patented, but certainly not to the extent you do under pharmaceutical or prescription drug types of products. So there may be some limited potential there for

patency protection, but fairly minor so far as I'm aware.

**MR BRYDEN:** But where you've got a system which parliament has introduced, where you have to register your product before you can put it on the market, the capturable commercial benefit is actually registering the product and getting that number, and then you can go out and sell your product. That's the capturable commercial benefit which our members would see.

**MRS OWENS:** But only for a short time, because somebody else can put a similar product on the market.

**MR BRYDEN:** Yes, that's true.

**MRS OWENS:** Just get a number as well.

**MR BRYDEN:** Yes.

**PROF SLOAN:** There are two points: industry, I suppose, is benefiting from some additional degree of comfort implied by the government stamp of approval, so that can improve overall consumer confidence in the industry. Is that right?

**MS JOHANSON:** Yes, that's right, and certainly the industry is unanimous in its desire to retain a pharmaceutical standard of good manufacturing practice, for the same reason: that it results in products that are viewed internationally as being high quality and gives the consumers some confidence that the products they have purchased in Australia under the TGA system are of good quality and are low risk. That's an issue or a concern I have in relation to the products that are imported by mail order because, to my mind, I'd rather see a less stringent regulatory system here in Australia which allowed a wider range of products, including all the ones that we currently can't sell here in Australia - new herbs, new nutritionals - I'd rather see them available in Australia and know they were manufactured under GMP than have consumers accessing them by the Internet, and the products will be of unknown quality and safety because there's not the same level of control.

**PROF SLOAN:** The second point I was going to make - Allan or John might like to come in here - it only is a path through industry. The consumers ultimately bear the costs of this.

**MR CROSTHWAITE:** Exactly.

**PROF SLOAN:** And if they don't, ultimately there will be fewer firms in the industry, presumably.

**MR CROSTHWAITE:** Then it becomes a niche market or a boutique type of market. The potential it has to expand out there with natural health care and to cut down on the use of pharmaceuticals is enormous and yet we're stifling it into a very small boutique.



**PROF SLOAN:** In one sense it's kind of okay, because they are the beneficiaries, but only as long as they're kind of paying for the benefits. But for the beneficiaries to be paying for government advice and the other things that you mention, which are not bearing directly on that kind of stamp-of-approval process, that brings you back to the 50 per cent cost recovery.

**MS JOHANSON:** Yes, and it seems to me, in looking at the future - and I think you're aware that we've put in a submission asking for that separate office of complementary health care products - that now the system is established, you've got a self-assessable electronic pre-market assessment. That's a register that could actually be contracted out from the TGA. The advertising is a co-regulatory approach and I believe you could set up a system that still ensures safe, high-quality goods but at a much reduced cost.

**PROF SLOAN:** You're advocating basically the contracting-out of some of the functions. Presumably you would accredit providers.

**MS JOHANSON:** Yes.

**PROF SLOAN:** Presumably one of the advantages of that is that you could end up with a much more variable cost structure. It seems that at the moment the TGA has very high fixed costs which don't vary much from year to year and they have to recover that, whereas if you had a small complementary medicine agency with the functions essentially outsourced, presumably the demand for that could vary with the demand on the agency itself. Is that what you've got in mind?

**MS JOHANSON:** I probably haven't given that a lot of thought, but I'd like to think about it and come back to you.

**PROF SLOAN:** Okay.

**MS JOHANSON:** I think the other area that the TGA approach impacts on is export, because we have difficulty exporting our products to countries that regulate these same products as foods. As soon as they hear these products are regulated as medicine, the barriers go up and they expect a lot more information or, in many cases, you can't export to those countries. Those countries often ask for a certificate of free sale, just saying that the product is on sale in Australia, but because of the regulatory barriers we've got here - and there could be good reasons - because we've got an adequate supply of a certain vitamin, we may not need that product here in Australia, but if it's not freely available in Australia, obviously you can't get a certificate of free sale. The TGA won't issue such a certificate anyhow, because they say they regulate pharmaceuticals, they regulate medicines, so therefore they won't actually generate certificates of free sale. So it's a barrier imposed by the regulatory system in the export area.

I was talking about herbs before. Australia has so much potential to actually

grow and harvest fresh, great quality herbs from Australia, and we're not taking full advantage of the potential we've got here.

**MRS OWENS:** I've just got one question and it's a question you may not be able to answer, but you raise the issue that if the fees aren't related in some way to the direct service costs, you say that they may be unconstitutional and they in fact could be taxes but they're not supported by tax legislation. Has there been any testing of that? Have there been any court cases testing it in your area?

**MS JOHANSON:** I've got some advice here which I will provide to you later.

**MRS OWENS:** Could you table that - did you?

**MS JOHANSON:** No, I didn't. I just brought it with me because I wanted to mention it to you. It's advice by a senior counsel in relation to the fees and charges imposed by the TGA. The first piece of advice actually says:

Put broadly, the charges concerned are for evaluation of drugs and devices provided for in the therapeutic goods regulation and for maintaining a product on the register. The position can be summarised as follows: counsel concludes that therapeutic goods charges appear clearly to be such as to constitute taxation rather than fees for services.

Then it goes on to explore it further. If that's of interest to the inquiry, I'll - - -

**MRS OWENS:** I think it would be of interest and I would be very grateful if you could table it. Is it possible? If you can't, we could check with you later and maybe you could forward it later.

**MS JOHANSON:** No, I'm happy to table it, but I will need to get a copy for you. Can that be arranged?

**MRS OWENS:** Yes, that's fine.

**PROF SLOAN:** You can have it under some confidentiality arrangement, too.

**MRS OWENS:** Or is it more the fact that you've only got one copy with you?

**MS JOHANSON:** It was advice that was commissioned by another sector of the industry initially, then broadened out to several sectors of the industry. I did check with them last week as to whether they felt comfortable with me tabling it - a bit surprised that they hadn't tabled it themselves - and they indicated that they didn't have a problem with that.

**MRS OWENS:** Thank you. That would be very useful for us.

**DR STEWARDSON:** I'm still a little unclear - and I don't know whether there's

anything you want to add at this stage or not - about this business of private capturable benefit. It's really a question that was asked before. To me, a private capturable benefit means that it is something that an individual firm can actually make money from, and your response to the question that was asked about that was in terms of, "Well, the private capturable benefit is that the firm can then sell the product." But your submission is also saying that the current system is a big disincentive to introducing new products because we have a big cost from that and as soon as you've got your product approved, then somebody else can leap in and copy it for free, which is really saying that there isn't a significant private capturable benefit.

**MS JOHANSON:** There is one area that we haven't touched on today, and that's when you get up into the registrable category. We've dealt today with listable, which are the low-level products that are self-assessed and included on the register for the \$400 application fee. There's a higher level of goods called registrable goods which actually go through full evaluation, so therefore at a much higher cost, and if a sponsor wants to make a high-level claim, like a claim that relates to a serious disease or condition or a treatment claim, then that makes it a registrable product. It has to go through full evaluation and, in many cases, that single company may be the only one who has access to information.

For example, if a company generated some clinical data research that it commissioned and the data were only available to that company, then that company may be in a position to go for a registrable product and, in that case, there would be a capturable benefit to that company. If the data were out in the public domain, then another company would have the same opportunity to go through the same process, pay the same fees and have a look-alike product on the market.

**DR STEWARDSON:** The company has its capturable benefit because it has some particular information which it keeps to itself, apart from sharing with the TGA? It's not that there's any period of time that registration gives a de facto patent?

**MS JOHANSON:** No, that's in the event that a particular company does commission research of its own and therefore has sole access to the data resulting from that research. There will be other research done internationally where the data will be in the public domain and can therefore be used by two or three companies. That's not a frequent occurrence. There are very few registrable products, except for those that were grandfathered at the time the legislation came in.

**MRS OWENS:** But if the company does the research and the information is provided to the TGA, then that information becomes public information?

**MS JOHANSON:** No.

**MRS OWENS:** It doesn't. So there are some confidentiality provisions. The TGA can evaluate the material that comes before it and that material doesn't necessarily get into the public domain.

**MS JOHANSON:** No.

**MRS OWENS:** So you can keep some benefit for some time.

**MS JOHANSON:** Yes. If it's commercial-in-confidence data that is provided with a new product, a registrable product, that will not be out in the public domain.

**MR BRYDEN:** If I could just add a couple of comments: the term "capturable commercial benefit" is not one that we made up. It's actually in the ANZFA act. It's one that Senator Tambling and the Department of Health are familiar with, so we've kind of moved along that line to try and give them something that they might recognise. I think logically if you have a product and it's not on the register you can't sell it, you've got no commerce, you're doing nothing. You pay the fee, you get it registered, at least you've got a commercial benefit. I guess the capturable side gets into things like patented substances, but at a very simple level there is a commercial benefit of getting your product registered, because you can go out and sell it.

**MS JOHANSON:** Getting it listed. But at a higher level new substances, patented products and so on are quite problematic for our industry because there are very few patented products.

**DR STEWARDSON:** I think the term "capturable" probably gets you into trouble in the listed products, perhaps not so much in the unlisted.

**MR BRYDEN:** Yes.

**MRS OWENS:** You gave an example before where the company may have done its own testing and so on and have a process which is, to some extent, secret. It may not be patented but they could get a capturable commercial benefit for quite some time just with that process.

**MS JOHANSON:** The data from their research could be confidential and will remain so perhaps until someone else repeats the clinical trials, or produces more data.

**MRS OWENS:** Yes, so you don't necessarily have to have the patent to make it a capturable commercial benefit if you've got some way of keeping it secret.

**PROF SLOAN:** That of course sounds quite inefficient. If you had patent protection then the results of the evaluation would be open. The idea that you would have to repeat it to get registration sounds a bit inefficient.

**MS JOHANSON:** We've had some examples recently where members of the industry have gone through the high cost registration process for a substance, and if you register a product it's not just the higher fee that applies, the evaluation of a registered product means stability trials, testing. It's a totally different category of data required and cost involved. One of the big manufacturing companies has just

recently gone through that process for a substance, finds out that unknown to them another company in parallel has been putting the same substance through a listing process, so all the money and time and resources they've invested in trying to get a capturable benefit from registration level now seems to have been wasted.

**DR STEWARDSON:** Is the listing process a paper examination rather than a laboratory one?

**MS JOHANSON:** Yes, but you've got to confirm; you've got to actually certify that you comply with a whole range of standards. It's a very complicated application form, 29 pages or something that you have to complete, and then you certify that you actually meet all the relevant standards, you comply with the requirements and - - -

**DR STEWARDSON:** But you, the company, do that bit and then - with registration - does the regulator have to do laboratory tests?

**MS JOHANSON:** No, there's just a lot more data required for evaluation.

**DR STEWARDSON:** So to go back to an earlier question that was asked about why your industry, or your part of the industry, would benefit from having a separate regulator, your industry doesn't need all the laboratory testing overheads that the pharmaceutical industry - the more sophisticated, if you like, pharmaceutical drugs need for their testing. Is that correct?

**MS JOHANSON:** The services of TGAL, certainly for our sector of the industry, are directed at post-market surveillance, so testing to make sure that the required level of substance is in there or it's not contaminated. It's not really for pre-market evaluation purposes. Again, why I concur with the TGA's initial estimation, that TGAL's costs are almost totally related to public interest rather than an industry service.

**DR STEWARDSON:** Thank you.

**MRS OWENS:** You do, I think somewhere in your submission, say that some of that work could be done by private providers.

**MS JOHANSON:** The NATA accredited laboratories, and that would also - I think as Paul has indicated - provide a benchmark, I guess, for competition and costing purposes.

**MRS OWENS:** But has there been some resistance? This comes back to the contracting-out point, I suppose.

**MS JOHANSON:** My understanding is that there was actually another review of TGAL several years ago now. Industry has never been privy to the recommendations that came out of that review, even though I think we paid for it.

**MRS OWENS:** You pay for everything.

**MS JOHANSON:** Yes. I understand there were some recommendations there that did go along those lines, that some of the testing could be contracted out to NATA accredited laboratories.

**MR BRYDEN:** I just mention that under the Imported Food Control Act, I think it's called, and the imported food inspection program, the original legislation required all testing to be done by the Australian Government Analytical Laboratory, and that act has been changed to allow NATA accredited laboratories to test food. It's pretty straightforward.

**MRS OWENS:** So why hasn't it happened here?

**MR BRYDEN:** I don't know.

**MR CROSTHWAITE:** One of the big examples is overseas audits, GMP audits of manufacturers in other areas, and the cost to industry of flying the GMP auditors to these countries to carry out an audit within the country, when we've got organisations within that country quite capable of carrying out those audits under a contract basis. It would only take once to bring one out here and train him or two out here and train them, and then we would eliminate a lot of those costs that industry has to bear.

**MRS OWENS:** Indeed. Thanks for that, Allan. We are running a bit over now so thank you very much. Was that all we had today, that you wanted to raise with us? Thank you for the supplementary submission. If we can get the table document we can get that copied later, Val. Anything else you would like to raise?

**MS JOHANSON:** No, but I would like to say that if we have more information or more evidence that we believe is relevant to your inquiry we would be pleased to provide that.

**MRS OWENS:** Good.

**MS JOHANSON:** That's part of the process, I understand.

**MRS OWENS:** Yes, and there will be other opportunities if you want to write another submission at some stage. We will be putting out a draft report before Easter and calling for further submissions, so you can get another bite at the cherry.

**MS JOHANSON:** Thank you.

**MRS OWENS:** I'm sure you're very pleased about that. Thank you very much. We will just break for a minute.

**MRS OWENS:** The next participant this afternoon is Dr Mark Paterson. Dr Paterson, could you please repeat your name for the transcript and explain in what capacity you're here today.

**DR PATERSON:** Yes, I'm Mark Paterson, here in a private capacity to express some views on the way in which the Bureau of Statistics has made data available, or made analyses of data available over the period since cost recovery was introduced. I might say that the area I talk about, which is motor vehicle statistics, relates to something which has been a long-term interest of 20 years plus, because it plays a part in Australian and ultimately world resource availability, resource use, and the various impacts of those things. I guess you could say that it's about environment, conservation, those sorts of things. But then you've got to get down to the specifics and say, "In which areas?"

This has been an out-of-hours interest, although I've done some occasional paid work in the area. For about six years I have had a relationship with a company which paid a very small amount and which has its own statistical base, which is very useful, on the basis that it was useful for them to have someone external sort of scrutinising what they do and also turning it into interesting products for various uses. I've also done some occasional unpaid consultancy work and I've written some papers and so on which have been delivered in various places, purely as someone with an interest in these things and so they've gone into academic and semi-academic situations in some circumstances.

My PhD is meteorology and I guess that's what has given me the quantitative statistical interest in these things. The sources of information in motor vehicle areas are relatively few and far between. The Bureau of Statistics has collected information and published it for many years. It goes back really to the post-war period and, in addition, there are a few commercial sources. There are detailed and very timely figures on motor vehicle sales through a system called VFACTS. That is a very big seller because all of the motor dealers like to know - that breaks things down into models and colours and options and so on - so there is a direct commercial interest there, but once those vehicles are on the road there is no further information from commercial sources. They spend the next 10 or 20 years doing what people do with vehicles with no information about it.

The other one is a private fleet manager, a company which has 100,000 vehicles on its records and they also produce very timely and very detailed data. That is a different source, it's nowhere near an alternative to the same things, but it provides one with the understanding of what can be done with good statistics.

During the 1980s I was a regular user of ABS survey of motor vehicle use reports and also motor vehicle census reports. From the mid-70s those came out at regular three-year intervals and they became a time series which people used in all sorts of areas, such as road safety and emissions matters and traffic volume estimations and those sorts of things. They were relied on as something which was

getting better with each successive survey because they were sorting out definitional problems bit by bit. They were getting the state motor registries better sorted out and so on. They were also bringing out not only their basic information, their basic publications - that's the \$20 item from the Bureau of Statistics, and it's a good basic summary whenever they complete one of these things; it gives you tables that give a very broad shape of things but it's not a research document, it's something which provides some press release information and so on and it's also the place that you go to for total numbers.

In addition they produced more detailed tabulations which were suggested by clients - very loosely defined because they weren't all paying clients but people who were researching particular things and so on. The ABS had the unit records which were confidential but they could generate the tables out of that and they were distributing that sort of information. When something was done it was put into their overall output and you could get this increasing stack of microfiche which, in 1985, added up to quite a useful record, with its quirks but nevertheless a useful record that you could go back and delve through.

The 1988 survey of motor vehicle use and census - in the way of these things it was about 1991 before that was actually being published in any sort of form - I think this one took about 18 or 24 months to get out but the next round took even longer. They were shaping up for the 1991 survey before you knew exactly what was coming out there. The further tables never came out as a public record. As I mentioned in my submission, in the mid-90s there were still people going back and sifting through the microfiche to try and get an idea of the shape of things, on the assumption that they hadn't changed too much in the intervening 10 years, and for some reason they had not been able to get access to the later outputs.

The survey of motor vehicle use has been a sample survey which has varied - it went from about 40,000 vehicles up to around 60,000 vehicles per cycle as people realised that they would like a bit more information about this and a bit more about that. It has since been cut down to 20,000 in 1998 and 1999. It is cut down now to 16,000 because there is said to be some targeting efficiency with that, but for 11 million vehicles total, and quite diverse vehicles, it is quite a small sample in total. As I've said in the submission, in the early 90s the bureau was looking for - I think they had some budget stringencies - they were talking of things like deferring analyses of the population census and they certainly were planning to defer the next survey of motor vehicle use, and this didn't seem to be generally known to the people who used the information.

It was only when that was made known that it became quite evident that all of the state vehicle registration departments and all their road planners and so on, who all depended on those sorts of statistics on a regular basis so that they could keep their operations in balance - they needed to know what they were going to provide for, what were the trends in vehicles onto the road and so on - it was when they found this may be discontinued or let's say that there may be a break in the series that they started to take a big interest. It is because that is a piece of work which cannot be



denied by the Commonwealth - the ABS could never walk away from it, I believe - that I call that the bedrock requirement. I see it effectively about collecting and spending taxes and charges and that's reasonable - it's an operation of government that one wants to see operating efficiently.

The other uses though, which are more the flow-on uses - once you've got a body of data out of people, then use it for those other environmental, safety sort of things which I've talked about - how do they get that information? Those other uses were tending to be lost sight of. My concern is that the cost recovery regime that was introduced in the early 90s actually lost that client base because the ABS had never really recorded that they had such a client base. There had been work which had relied on this but they had never actually put effort into identifying what that market was. The assumption was that if they put the products on the market then people would step forward and buy them, but at the prices they were - I can't show you the \$600 supplement to this because it's only one of seven or eight of them, and it costs about \$4000 per cycle to get that body of material which would allow you to keep in touch for another three years, and there are very few people - in fact there are not many organisations which will buy that on spec. Those are the sorts of problems which have occurred.

The people who use these things up to the early 90s - some of them simply stopped working in the area and so on. In other cases there were decisions being made: in the early 90s there were decisions on lead in petrol which was a hot issue with motor manufacturers, with the refining industry and with the petroleum marketing industry. They were decisions which were debated for a quite short time, and the government decision was taken, which now means that we have different petrol in Sydney and in Melbourne from in the country at large. That decision was taken, as far as I can tell, without one bit of information input from an ABS study. It was done very much from qualitative arguments, so whether the level at which things were set or how the nature of the hazards and so were appraised, what the trends were with the removal of lead from petrol for new cars - those sorts of things seemed to have been quite missing from that policy decision.

It is that, and it is then all of those other things - the decisions made around the community and the crystal ball gazing which is done by academics in the community at large and so on - which I think have fallen into abeyance in the loss of this information. I understand the bureau is trying to get back into the market some other products which are reasonably priced but they are also modestly sized, I'd have to say. I've recently got the latest ones of those and, you know, they're nice little items, they certainly add something to this but they don't fill out the picture. I think that the intention is to repair some of the damage that was done during the early 90s, but how they do it and how you rebuild a usage base in the community for what I think is largely public interest usage, as I've argued in the submission. That is the question, and I guess that's where I come from.

**MRS OWENS:** Good. Thanks very much for that. I think there are a number of issues that you've raised. I don't know the best way of doing it but maybe we could

just go through some of the comments you made and actually go through your submission itself. I think there's a bit of a catch-22 in that the ABS puts prices on its products, fewer people can afford them, the researchers can't afford to pay for them, so they stop buying the products. The ABS then says, "Well, the price signals worked, the demand has gone down and maybe there's not a demand for this. We'll cut it out or we'll make the supply less regular," or whatever.

**DR PATERSON:** Yes.

**MRS OWENS:** It may be a false price signal really. It may be a false signal to those people, if it's a group of people that can't afford it for various reasons because they are researchers or whatever. Although in other areas we say, "Well, that's just tough," but here we're talking, I think, about what you would probably define as being sort of public good research where there could be potentially benefits, not just to the individual who is doing the research but broader public or community benefits from understanding some of the things that they're working on, in relation to cars or anything else that they're using the statistics for. Is that right?

**DR PATERSON:** That would be my argument also, yes. There will be a few agencies which may use the information but they will be the ones that are generating an official view, they will not necessarily be looking forward to anticipate what might be needed next and so on. It is the loss of the bodies that do that - very often they are community interest groups - and I think it is the public interest which actually calls for that sort of work. Cases would be things like the nature of road trauma, you know, injury, death and so on on the roads. Some of that work fell by the wayside and I think at that stage it was something where there was the occasional research grant that would fund the work, but it wouldn't fund the thousands and thousands - I mean, it would be maybe in the early 90s, it would be maybe a \$10,000 job, but it wouldn't also pay for acquisition of \$20,000 worth of data in order to do it. So it meant that a database from which you would wish to pick selectively, was not in the hands of the person who would do that work. Similarly with community groups, which are concerned about - it may only be about their locality, but if you're looking at things like trends in traffic with the consequential noise and so on, then those groups have to get onto more qualitative arguments rather than quantitative when the data does exist.

I think at the moment there are bodies who are interested in the climate change issue, and that's definitely a factor here. I think that particularly when you're getting price signals on fuels you can say, "Well, the markets will sort those sorts of things out," and so on. In fact some of those things are working in the same direction, but they are not about the same society costs, whether it's a world society or whether it's just local society.

**DR STEWARDSON:** Do you want to say anything about something we've been talking about, the ABS information that you are talking about, is not really a public good in the technical sense because it's very clear that people can be excluded from using it. That's the very gist of your complaint.

**DR PATERSON:** That's right.

**DR STEWARDSON:** So it's not strictly a public good. It may be that it is good for the public but not a public good. Are you talking about the thing having externalities that gives it its sort of rationale for maybe making it more freely available than people are prepared to pay for it?

**DR PATERSON:** There's a public interest in that being incorporated in people's analysis and commentary, and it is that public interest which I would say is something - particularly as the information is being collected for other purposes, that because this is something which traditionally had been drawn out of it and then used, it demonstrated there was a use for such information and it helped to promote public debate on matters of interest. It was that contribution to debate which I think is important.

**PROF SLOAN:** It mightn't be a public good, but why do they collect it in the first place?

**DR STEWARDSON:** Good question.

**PROF SLOAN:** They're not collecting it to just lock it up in a room, are they?

**DR PATERSON:** If you look at the survey as it now stands, they're looking at a sample which is supposed to represent something like 11 million vehicles, and 8 million of those are passenger motor vehicles. Those are picked up in something like - they send out less than 4000 questionnaires to pick up that information, and they get about 3200 back again. That tells you about vehicles from the ones newest on the road and which perform as new vehicles do, right down to the ones that are 20 and 30 years old, and are represented by some as hazards to health through emissions and so on; expensive to run because they're inefficient; they're safety risks and so on. It deals with driver age from 70-plus down to 17 and with all of the factors that are involved with that, and also with regional issues.

So that sample of 3200 vehicles - let us say that is the best we have - it's of some value. The question is whether doubling the size of that would give it a lot more value, and I would suggest that it will allow a lot more of those variables to actually be looked at. Then that is something where that bit of the survey is, I guess, always the one which is pruned down, because road taxing things don't come into it very much. It's almost a census, but in some cells in the selection of the sample they pick up 20 per cent of them or even all of them. These are the multi-axled vehicles which are putting big burdens on the roads, which are requiring the design parameters for roads and which are responsible for a substantial amount of the taxing and so on. Those are the ones which the road and traffic authorities want the information on for road engineering, and so on, purposes, and those are very heavily represented in the sample.

I think that the public interest issues are much more in the light vehicle, you

know, the passenger motor vehicle range, and those are being squeezed. As you suggested, one could say, "Why do those at all?" It's getting down to a very small number. I suppose I would say, "Well, if you're going to do it, then have some approach which will decide what is a reasonable scale on which to do it." The signals are not strong enough, because they've lost track of who actually uses the information.

**DR STEWARDSON:** I guess the very basic question is: who decides what is in the public interest? You've just put up an eloquent and, as far as I'm concerned, convincing case to say that this data is in the public interest. But who is to say that Paterson and Stewardson are allowed to judge that?

**PROF SLOAN:** It comes back to the point of why they collected it in the first place.

**DR STEWARDSON:** Yes, exactly.

**PROF SLOAN:** Basically saying it is in the public interest to collect it.

**DR STEWARDSON:** So the government has decided - - -

**DR PATERSON:** You need to have a survey of this sort of structure in order to get that heavy vehicle information, and I suppose because of volumes of vehicles on the road, the sort of timing of traffic lights and all sorts of things that flow out of that, those sorts of things you need to account for this sort of viscous mass of cars that is around all of the big payers, you know, that is the trucks. But the authorities that are interested in the trucks - there is a group that meets called the Transport Statistics Users Group, and that is very heavily those bodies. The Bureau of Transport Economics also is involved. But the expressions of interest in the shape of the survey comes from the people who have that interest, and they are always at the table to argue for their interest.

**DR STEWARDSON:** Why do you think the ABS has had this recent change of heart to start publishing, at least to some extent, this sort of information? Is it that they have been struck by conscience and feel they ought to supply something that is in the public interest, or do they see that perhaps they can build up the market so that it becomes a commercially viable thing that they want to do?

**DR PATERSON:** I understand it is part of a bureau-wide development. I've seen the submission. I've not spent very much time on it, but I've seen the ABS submission to your inquiry, and it seems to me that there was some recognition that with the changes they made in the early 90s somehow or other they've lost recognition around the community. I think it may be trying to rebuild that standing with the community. I think at the time that the original pricing was introduced, they didn't know - I sought the information on what their distribution of their output was before they introduced cost recovery and what it was after that, and it was very difficult.

It was basically denied that there was any public interest in knowing that, and I would have been up for a freedom of information request for just the number of these that they print, sell and give away to libraries - that and some other things which should have been fairly readily to hand in an organisation which did have an idea of what its market was. I was told that it would cost me \$960 just to have my FOI request followed through. That was really just to provide some data where there have been only qualitative discussions so far, so I suspect that they had very little concrete information.

**DR STEWARDSON:** What is broadening this slightly, not just to think of the particular data set that you're interested in, but comparable degrees of detail about ABS stuff, do you have a view on how they should make that available, and how they should price that, particularly when a number of users are in the sort of broad research-type category, be it universities or even private individuals who aren't necessarily going to be able to pay for large costs?

**DR PATERSON:** I've argued in the submission that they spend about \$2 million on one cycle of the survey, just to get it to the point where they can pull out tables which will produce this publication, but also the things which the taxes, road builders and so on require. There will be some other work on that done by those people, so by the time it has been fully assimilated in the public - you know, for use by what are basically public authorities, there will be somewhere between 2 and 3 million dollars spent. Some of that further analysis of it would actually be of interest and of use to people who are researching other questions, which would be these public interest ones as I see it, and the cost of making that available to them is really effectively the cost of reproduction - which is low. These days, if you can simply put it on a Web site then, I mean, yes, it is very low. I think the number which they distribute will still be less than 100. It will not be something where - - -

**DR STEWARDSON:** So you're talking about more detailed data?

**DR PATERSON:** More detailed tables. These are the ones which I referred to being put on the market at \$600 a module and \$4000 for the full pack, for the 1992 survey.

**DR STEWARDSON:** Because I think they say, don't they, that they do charge those at incremental costs? Isn't that correct?

**DR PATERSON:** That's right.

**DR STEWARDSON:** You're saying that's not a realistic assessment of incremental cost.

**DR PATERSON:** No, I believe that this is the cost of printing, which is the incremental cost, as I understand it.

**DR STEWARDSON:** Yes.

**DR PATERSON:** Most of those tables would be generated as a matter of course in their work. Until they could look at those, they wouldn't know whether it was garbage out - so that is the level at which I think it is strictly the incremental cost. The next tier of output - I think their approach in the early 90s was to produce that on a speculative basis. There should be people out there who want to have something which they call their taxi pack, which is an analysis of everything they know about taxis, but given the size of the sample that's not a lot of taxis and it's not a lot - but when that was priced at \$600 I don't think they distributed very many. They had others which were about fuel use and so on, and even agencies whose central responsibility was about fuel and fuel supplies, bought it once at \$600, but then didn't come back the next time for it. At that price the market was almost zero. They had already produced them, though. They had already produced those tables on a speculative basis.

**PROF SLOAN:** I think one of the issues is that this is a funny kind of product, in the sense that it's probably a kind of experience good or something, because it's very hard to specify exactly what you want. The nature of research is that you might generate a whole lot of cross-tabs and you have a look at the scanner diagram, then you think, "That variable must be wrong," and you might adjust that variable.

**DR PATERSON:** That's right.

**PROF SLOAN:** Then on the basis of all that, you might then start to run some multi-varied analysis and stuff. But this pricing structure does not encourage that at all.

**DR PATERSON:** No.

**PROF SLOAN:** And you end up paying \$600. You get the table and it's a complete dud; it tells you absolutely nothing at all.

**DR PATERSON:** That's right, yes.

**MRS OWENS:** You're taking a risk actually.

**PROF SLOAN:** And it's too costly, so you end up not doing it at all. Basically what you're saying is it defies the nature of the process and secondly, it's killing off therefore this important secondary analysis of the data set, which has already been paid for.

**DR PATERSON:** That's right. Some of it has been done and paid for. I think the ABS itself could decide not to do any of that sort of secondary analysis, although I think that another \$100,000 on top of that two to three million will actually put a lot of things - they would make them readily available. How you regulate it or even counted access to that - even if you knew how many people had used it, because once it becomes pretty good people will - I would copy it from his copy rather than the

ABS's copy because it's right here now. So the ABS will never have a full count of how many of those are being used, but if it was available people would be using it. They would see that this was being done only indirectly because people were citing ABS sources for things which they were then using in their research, or else they would be coming along for the next - as you say, if this one gives scattered diagrams that look like such-and-such and it leaves a question mark in your mind you might then go back and say, "Okay, well, I'm prepared to put \$500 into you running the same form of the thing just with different variables, the same form of cross-tabulation. I'm prepared to pay that for this on a state-by-state basis, or region of operation basis, or something like that."

That's the sort of thing which people have typically used to research problems like, "What's fuel use in the bush?" for instance. What about fuel use for business purposes, for journey to work and for private use? What has happened to that in the year in which petrol prices, or fuel prices have gone up enormously? If people are going to argue that that is an issue of concern nationally, then to have a source of information which can deliver that but to not use it seems to me to be an under-utilised resource which has already been paid for.

**PROF SLOAN:** But are you also making a point - which I would agree with - that the kind of fall-off in secondary analysis of these types of data sets are actually undermining the very basis for the data set?

**DR PATERSON:** Yes, that's right.

**PROF SLOAN:** So you're talking about the fact that the number of respondents has declined, etcetera.

**DR PATERSON:** Yes, that's right.

**PROF SLOAN:** So it's kind of circular. The view is, "Well, no-one is really interested in this."

**DR PATERSON:** That's right, yes. "We put it on the market and no-one stepped forward," and the fact that - - -

**PROF SLOAN:** Yes, and so they kind of then started to dilute the base.

**DR PATERSON:** I think that that may be - - -

**PROF SLOAN:** I don't know whether that's true but it's certainly an hypothesis.

**DR PATERSON:** I think that that happened quite abruptly in the early 90s and the question is whether - my feeling is that with a lot of major decisions being taken by the community, or on its behalf - now whether it's individuals deciding on vehicles that they will buy or whether it is public agencies deciding on whether it makes sense to put more into public transport rather than private transport and those sorts of things -

those are very big decisions nationally and internationally and for those to be made on a qualitative basis when more quantitative information was available I think is to the detriment of the Australian public policy.

**MRS OWENS:** Can I just come back to the ABS itself. I've never worked for the ABS and I can't speak for the ABS, but I suppose they have to make some fairly difficult resource allocation decisions about how they're going to allocate their resources between these particular statistics that you're talking about, the survey and the motor vehicle census and other uses - the economical statistics they collect, the whole statistics and so on - so somehow they've got to make a decision about firstly what their basic data set is, bedrock data across the board - you know, "What's in the public interest to collect?" Then they've got to make a decision about any supplementary information they're going to have to introduce, and then they've got to make a decision about the more refined stuff that they could do on a commercial basis.

They've got three sets of decisions to make and they've got to allocate resources across all three. I think all of those are difficult, and somehow they need to - I would presume when we see them next week they will say, "Well, we do need to have some sort of price signals in there, otherwise how else are we going to decide?" Otherwise they're making decisions on a qualitative rather than a quantitative basis. So there is a dilemma and I don't think it's - - -

**PROF SLOAN:** They used not to have price signals and they allocated resources before then.

**MRS OWENS:** Yes, but we don't know how well they allocated resources. Mark might have found that they were doing very well there but you might find other researchers in other areas who said, "Well, there's virtually no data available for what I was doing," so we can't judge how well they were doing that before.

**PROF SLOAN:** But you can technically allocate the resources.

**MRS OWENS:** But you're doing it on a qualitative basis based on what people tell you they think is important.

**PROF SLOAN:** I don't think they allocate resources on the basis of these price signals at all, because it's only at the margin. They only generate, what, \$20 million out of 200 (indistinct)

**MRS OWENS:** The question is whether you charge for anything and just say, "Well, okay, these are supplementary tables, we won't charge for any of that material that's out there in the public domain. " But I still think they would say that the resources are finite and they are only going to be able to produce a certain amount.

**PROF SLOAN:** Most definitely.



**DR PATERSON:** Yes.

**MRS OWENS:** So how are they going to decide what to produce? I would have to ask them this question.

**DR PATERSON:** That's right, yes. I have talked to many people about this sort of problem over the years and I've found that there are people who did use ABS sources in the past who are now not using nearly as much but there is still some work going on in those areas - this would be local government and medical research areas, epidemiological related things, family studies and so on, and so there is still work being done and there are collections which are being - I take it you couldn't do away with the population census, for example, and under those circumstances there are a whole lot of things that can be pulled out of that information, so long as you've got the right questions there.

If the information is sound and so on the cost of doing it, once the data set is right, is not all that high. There are problems in ensuring that they continue to meet their confidentiality requirements. That's an up-front cost for almost any output that they have and some of them are potentially more sensitive than others, but you've got to recognise that as being an important part of meeting their charter, maintaining quality assurance and so on.

**DR STEWARDSON:** Can I ask you about that, or maybe Judith might answer another question, too. When they go to the more detailed breakdown of statistics where there is the danger of revealing what could be confidential information, because you get down to maybe one or two producers, does that automatically sort of throw itself up by computer and the computer strike it out, or is that a manual thing?

**DR PATERSON:** It wouldn't be too hard to filter those things out. For each figure that's produced there is what's called "relative standard error," and that is expressed as a 3 per cent uncertainty in the view; the kilometres travelled by an ACT registered car. They have got those sorts of estimates. When it comes down to something which is very specific, such as a woman over 70 on a motorbike in the Northern Territory, then it's a very small number and so on, but she may well not have been - you know, if there are 10 such people it's unlikely that any of them will have been picked up in the survey anyway because it's only - for motorcycles - probably about the 4000:8,000,000 ratio, but she is unlikely to have been picked up. But it does not reveal anything about an individual's pattern of use, because you don't know that that person was picked up in the survey.

**DR STEWARDSON:** Your particular sort of information probably doesn't raise the problem, but company information does.

**PROF SLOAN:** I think there are two issues: you get stars in the cell, which is where you don't have enough numbers in the cell to give a statistically valid result, but there is a further issue of confidentiality where individual firms or individuals can be identified, and I think there is quite some cost associated with essentially adjusting the

data to ensure confidentiality.

**DR PATERSON:** Yes.

**PROF SLOAN:** We take that very seriously compared with a lot of other countries, I might add, because what does it really matter that we know that there's a 70-year-old motorcyclist in the Northern Territory.

**DR PATERSON:** It doesn't come into any decision processes, so that's right.

**PROF SLOAN:** So what?

**DR PATERSON:** Yes, that's right. You are getting to a level of disaggregation which I think people are quite happy to forgo. You may go to that level of analysis for other purposes, for other cells which have significant numbers, because that can affect decisions.

**DR STEWARDSON:** No, it's not really a relevant one, I don't think, for your particular interest.

**PROF SLOAN:** No, it's certainly an issue.

**DR PATERSON:** Yes, that's right.

**PROF SLOAN:** That's an issue because they can deal with it more cost-effectively when it's just in-house publications for their eyes only, compared with everyone's eyes. Then they've got to deal with it in a head-on fashion.

**DR PATERSON:** Yes.

**PROF SLOAN:** So that's certainly an issue.

**DR PATERSON:** The additional, or the third category of output that they produce - there is a certain amount of work done. Some surveys will have a particular client wanting some tens of thousands of dollars worth of work done on it and that has been just done on a commercial basis. The interstate commission, for example, had probably as thorough a working over the 1988 survey for its purposes as was done elsewhere. They had masses of output generated for some tens of thousands of dollars. That's a case where even what you would regard as being a big national use of it, the actual cost of providing that extra analysis was only 2 or 5 per cent of the total cost of running the survey. So the cost is up-front. The expenditure has been up-front. The people who are going to tax vehicles and invest in roads are already committed to the process and I guess they would have to have some - they would have an interest in it being done efficiently. Your question about whether it could be forgone altogether - I guess you can't forgo it altogether because they need it. They will see that it doesn't die.

**PROF SLOAN:** Another interesting conundrum is what the new technology implies for them, in particular. There are actual costs of that paper distribution.

**DR PATERSON:** Yes, sure.

**PROF SLOAN:** But in some of the American statistics it's just there on the Web.

**DR PATERSON:** Yes, I think that's right.

**PROF SLOAN:** And it's free and it's for everyone and there are no costs of distribution to them, and it generates a tremendous amount of secondary analysis of the data.

**DR PATERSON:** That's right, yes. That seems to me to be the public good in this, the fact that because people can log on to it, they can have a look at it, and 98 out of 100 will go away and never come back but the ninety-ninth will come back at some later stage, and the 100th person will say, "Just what I need. I will use that straightaway." They might go to buy some additional value added product from the ABS, but they can do it right there. That's very important, I think.

**PROF SLOAN:** That seems to be the way of the future.

**DR PATERSON:** That question of technology, I forget whether I actually left that in my final paragraph or not, but I think the ABS is moving with the times very well and anyone who has used microfiche would know that the cost of optical prescriptions is going to overwhelm the cost of data very soon. Nevertheless, the fact that we were willing to use it less than 10 years ago, I think just shows that people value the information.

**PROF SLOAN:** Yes. I just welcomed your submission and think that it's raising some points of general principle in a specific context.

**MRS OWENS:** Yes, I'm just looking forward to having our discussion with the Australian Bureau of Statistics because I think with their new directive they probably have to confront some quite difficult - I think very difficult issues about what they collect, who gets it, whether there are charges, whether the impact of technology means they don't bother charging, what's the basic data that should be collected regardless. It's the middle bit that I'm worried about. If there are three categories I guess it's the mixed public/private, as we were talking about with the meteorological people this morning, and how you define that and how you determine how you're going to charge for it.

**DR PATERSON:** They argue in the submission that there is actually very little commercial benefit to be gained from having data. I mean, most of it goes into what I would see as public interest uses and I guess there are people who are selling motorbike helmets. There was a study about windscreens and toughened glass versus laminated glass ones, and I'm aware of the odd bit like that, but it is so small that you

might as well say, "Well, if that comes up and they want some extra work then that's fine," but most of this will go out and it will be used by everyone from your local council to Greenpeace to the people in Geelong arguing that Ford shouldn't close down.

**PROF SLOAN:** I just emphasise the point, I think the technology - it's just not that it's a cheap way of distributing; it actually changes the whole nature of the process. The Productivity Commission used to charge for transcript. There are a whole lot of transactions costs for that. People had to find out what it was, they would have to ring up and they would have to pay some charge. Then they might get some submission, which is two pages long, and it's a lot of rubbish, or it's not what they thought.

**DR PATERSON:** Yes, that's right.

**PROF SLOAN:** Whereas through the Internet they can quickly scan through and it's actually a different product.

**DR PATERSON:** Yes.

**PROF SLOAN:** I think you can see that with statistics, too, you know. It will generate more interest, much more interest.

**DR PATERSON:** That's right. And the efficiency with which things are used just goes up enormously. People target the right things. Yes, I agree. I think it's a revolution absolutely.

**MRS OWENS:** Just before we finish, you raised another quite interesting point about commission work and you said it's not self-evident that the number of such commissions in any given period should necessarily remain a secret. Are you saying that it's okay to have some commercial-in-confidence arrangement but you say you can't even get access to information about the amount of commission work that's being done.

**DR PATERSON:** I think the fact that there is such work would be useful but I think one of the problems with this is that there will be many outputs that are generated for a client who wants it for their purposes but after it has been generated specifically the fact that it is then available - in many cases they are not trying to capture the benefit of it, they need it to go their next stage - but they would be very happy for that sort of thing to be put out in the public domain. How much they paid for it in the first instance, whether it was well-designed and efficient programming and things like that, is between them and the ABS.

In the early 90s there were problems, people would talk about getting output from the ABS and, when they got it, they would find it actually had some defect in the programming which was arguably entirely the ABS's responsibility and yet they would then be invited to have it fixed up for a price - not accepting responsibility for the

product in that case. There are a whole lot of issues about that but once it has been generated I don't see why the agencies which have that stuff done for them - because it is largely agencies - why they should be inhibited in passing that on further. I think at the moment the ABS doesn't allow on-selling of these things without having a marketing agreement with them or something like that. There are problems with that, too, but to know that work is being done in particular areas I think helps people to understand that it's being used.

**MRS OWENS:** Yes. It's all about transparency.

**DR PATERSON:** It is, yes.

**MRS OWENS:** We are actually running a bit behind now, so thank you very much for coming. We will now just break for 10 minutes and we will resume at 20 past.

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**MRS OWENS:** The next participant this afternoon is the Department of Transport and Regional Services. Could you both please give your name and your position with the department for the transcript.

**MR HARRIS:** I am Peter Harris. I'm deputy secretary in the Department of Transport and Regional Services.

**MR WILSON:** Andrew Wilson, director, policy coordination and development.

**MRS OWENS:** Good, thank you and thank you for the submission which we got I think last Friday.

**MR HARRIS:** Yes, my apologies for being as late as we were with this, but basically I had to pull something together and I had next to no time to - well, last month really. We were aware of what you needed; we just weren't able to deliver it until the sort of last gasp, so I'm sorry for it being - - -

**MRS OWENS:** I think Robin and I were fine because we had the weekend to read it, but I think Judith only just got it today, so she's probably skimming it now. But anyway, thank you for the submission. I understand you do have lots of other things to occupy you at the moment. I was wondering, would you like to make some preliminary comments about the submission and then we could enter into some discussion.

**MR HARRIS:** Sure. The intention in writing this submission was not to try to deliver to the commission something that you can easily get from your own research of academic papers and various things published in the past; what we thought we'd try and do is comment on some of the areas where cost recovery has proven to be tricky or unusual or not tried potentially because of it being tricky or unusual and outline some of the factors that we thought were relevant to that. We tried to structure the submission around some basic principles but in practice those have been, I've got to tell you, driven from the back end - ie, we picked up a bunch of issues and said, "Well, what are relevant here if you tried to provide cost recovery in those circumstances?"

We haven't picked up all the potential areas that could be covered by that but one I've mentioned previously to the commission staff is charging for the International Air Service Commission's allocation of air service rights. Those sorts of areas of cost recovery have proven to be problematic and I guess the government has done quite a solid job over 10 years or so in charging for the things that obviously look as if you could charge for them. I guess the commission would be interested in the areas where it's less obvious how you might charge for something, or at least that's the way we interpreted this and thus I've written along those lines in this submission.

**MRS OWENS:** Good, thank you. I think it would be useful to perhaps go through some of these principles that you've given us because we need to stand back from the detail of what individual departments are doing now on cost recovery to think about the underlying principles for cost recovery more generally and then develop some

guidelines that can be used into the future. While we're required under our terms of reference to look at what departments and agencies are currently doing we also need to be thinking more laterally about what is appropriate under future cost recovery regimes.

I think it's quite a useful exercise for us to stand back and discuss and debate principles and I thank you for giving that some consideration, because I think it's fair to say a lot of the submissions we've got have talked about costs recovery from their own perspective, about what's happening now on the ground, what are the problems with it and so on, and implicit in some of those submissions is an understanding of what they think the principles should be. I think that what you have tried to do is make some of that thinking a bit more explicit, so I thought that was useful. We could basically run through it. We could actually just walk our way through the submission.

**MR HARRIS:** Perhaps if I just do that. You'll see the dot points are listed down there and, as I said, they came out of trying to consider the things that we've done, even if it's not perfectly cost recovery. We stray between this question of what's proper pricing - market-related pricing and what's cost recovery - ie, I've determined a certain amount of costs and I'm going to distribute that in some way across a bunch of users but I can't really pretend it's a price, either because people don't have a choice about consuming it or because it doesn't actually reflect the nature of people's demand preferences and things like that. But we tried to pick some of those and then work backwards from them, some of the more problematic ones, and then test that against the generality of what is done in the portfolio for cost recovery, and they don't stand up too badly.

There have been a lot of intrinsic difficulties, and this is self-evident to anyone in the area, and it's not difficult for the commission to come up with heaps of examples I'm sure about this question about what are the right costs to apply to a particular bunch of users if you're doing cost recovery. The only reason I picked up the charging for rail access is it was highly topical at the time and still really is. Not too many people have come to terms with how to charge for something where you know you've got a set of costs, and if you try to earn a rate of return on them you'd kill the users, so what's the right price in the market? Anybody would say, "Well, if you can create a market, the answer is whatever the market gives you." Unfortunately, with a relatively small number of users they all know the costs as well and they come in and say they're not prepared to pay and you sit there in this environment of trying to negotiate a price where both sides know the costs and both sides know that no set of users can afford to pay for them.

What we did in those set of circumstances was go to this minimalist avoidable cost arrangement and then try and work back up towards what we might have considered to be a market price. I think what that shows is - I know there have been publications in the past that have said avoidable cost is, if you like, one of the right ways of doing this; we have found in applying it in these particular circumstances it was probably the only way. To my mind it's a good example of the sort of problems

you try and face when you're trying to provide cost recovery which might in the end become a market but certainly is a market right now. We picked that up and that was the best example I could come up with for this decision about what costs are attributable but, as I say, I don't think the commission will find too much difficulty coming up with a thousand different examples of that. The distribution across the range of users is something we - - -

**MRS OWENS:** Before we get off that - the costs that are attributable - I think one of the difficulties there is the difficulty we looked at when we were looking at doing the rail inquiry, which is: what do you do about capital and how do you measure capital costs? Is that drawn into the avoidable costs? The avoidable costs are the costs that could be avoided if you didn't have that activity.

**MR HARRIS:** But the government requires GBEs to earn rates of return and they keep saying to us therefore you've got to have some value of capital in there.

**PROF SLOAN:** Unless you run it down to zero.

**MR HARRIS:** That's what we effectively did do. We started at avoidable, which is primarily, "What does it cost to maintain this line in its current position?" Okay, distributing that over the number of tonnes, and we did a flag fall and per-tonne quality charge, but distributing that over the set of users gives us a base. If we earned a rate of return on our historical depreciated optimised replacement capital cost or whatever else you were going to use, that gave us a top band, and we've got to be somewhere in between there, but they were a very long way apart.

But we went to avoidable in the first place, what I'd call avoidable, which is, "What do you avoid if you shut down this line?" The answer was primarily the maintenance to keep it in the condition that it is, and it just said to me that intuitively, and having done it in a context where it was being as much commercially driven as it could be and still really called cost recovery, which is what we were trying to do - at least cover our costs - it worked, and so I think there's something to be said for taking that as being the logical place to start.

Where of course the commission has done its rail inquiry, I guess I'm advocating this because that's sort of a real world version of what we had to do prior to the commission's inquiry, and really I think we're the only ones who still continue to do it.

**MRS OWENS:** It's basically a pragmatic approach to a pretty tricky area.

**MR HARRIS:** Exactly.

**PROF SLOAN:** It tells you that you can't look at these things just from the supply point of view, because if you don't consider the demand, you can devise the most you-beaut cost recovery arrangements but if you don't actually have anyone demanding the service you'd be - - -



**MR HARRIS:** And the New South Wales Rail Access Commission, I think, has found that out. I haven't been engaged with them for a little while in pricing, but I know that was their approach. They did it from the supply side: "Well, the government has told us to earn this rate of return. It's therefore an agreed cost. We can reduce it by our CSO but by no further than that. You must pay." It didn't get a tremendous response from the market.

I'm not trying to exemplify a brilliant solution here. I agree pragmatism is the right description. We were just pragmatic about how we went about it. But it does show for any of these other areas where, as you said, your intent is to look forward and say, "Well, let's find areas where we're not cost recovery. They're obviously going to be the more difficult areas. What sensible principles can be applied to make people think that they could be solved?" That's one of them, to my mind. Don't think you've got to recover all your costs; think, "What can I avoid if this thing shuts down?" You sell them and shut down and then work up from there.

**MRS OWENS:** With the rail access question it's a broader question of what are the broader community benefits of - actually the overall objective is to get more competition, say, on the railway lines, so there are broader community benefits if you can achieve that broader objective.

**MR HARRIS:** Yes, although the more we get down there of course the more we're getting towards what I'd start calling pricing rather than pure cost recovery, and I don't know how you're going to define your distinctions. But I was sensitive, as I was writing this, to the fact that someone might say, "No, no, this is really a price," and I was saying, "Well, I can tell you it's not a price yet; maybe it will be a price in the future but it's not there yet."

**MRS OWENS:** Yes, we've got very few suppliers of services. You were going to move on to distributing the costs across users.

**MR HARRIS:** Yes, and this is an exceptionally good one because this goes back to the Bosch report of 1985, I think, which started out air traffic control or established Airservices or the CAA, as it was, as a separate organisation. There's a lot of history on this, a lot of paper available, a lot of analysis within government at least about how we established the costs and who we gave them to, and I guess I'm saying, "Here we are 15, 16 years later and we're still fighting the last of the battles about which set of users should pay for what costs the Airservices incurs."

Again exemplified by the current policy problem in front of the government is the - we introduced location-specific pricing a couple of years ago for users of air traffic control services and at certain locations where there are towers, in regional Australia in particular but also in some of the capital city airports like Bankstown and Essendon, if you distributed the costs of that tower across the users at that airport you would have a set of charges per tonne for use of that airport, which would shut the airport down. Thus, given you can't do that, we've currently got a CSO from the government in order to ensure that we have a set of charges which are reasonable in

the eyes of users. I think that's the term the government uses, "a reasonable set of charges," and that CSO is due to phase out at the end of the current financial year - it will be a policy decision of the government whether it does or doesn't phase out - but it's a particularly good example of the fact that taken to the nth degree the distribution of charges across classes of users can cause the kind of problems which in the end result in having to pay a CSO.

**PROF SLOAN:** We get that thing quite a bit though, that various players probably quite understandably object to paying cross-subsidies.

**MR HARRIS:** Yes, they do, and aviation is a classic.

**PROF SLOAN:** You can see their point and you think that it would be hard for our guidelines to be supporting certainly embedded cross-subsidies that aren't - I mean, often they're not that transparent. People think that there are cross-subsidies and perhaps people think they're larger than they are. Is the way forward that if you want to subsidise a particular group of users, then that should be done from the budget - - -

**MR HARRIS:** That's certainly what we've done.

**PROF SLOAN:** - - - rather than cross-subsidising from other users?

**MRS OWENS:** That's what the CSO arrangement is.

**MR HARRIS:** That's what the CSO does in this case, but there is a counter-argument, at least in aviation and a number of others, and I think I mentioned it in here, and that's if it's a network at the end of the - the users at Bankstown came from somewhere else; they don't come from Sydney Airport, which is the biggest alternative - you know, it's the largest revenue raiser and therefore the best way of cross-subsidising, but a few of them will have come from Melbourne or Brisbane, but you can't disentangle that. So location-specific works well in principle, but the view of the class of users that have to incur that ultimate cost - should the government take the CSO away - the view of that class of users is along the lines of, "The industry broadly needs a network of airports. We are at this airport" - in the case of the capital city general aviation airports, Bankstown and Essendon - "we're at this airport or we'd be at the other airport" - Sydney, Brisbane and Melbourne main airport - "messing up their traffic". So there's a benefit to them in us remaining here and that they should be contributing in some way to it. How do you crystallise that benefit? Impossible.

I think the CSO was the right in-principle solution but there is an argument there that's not just simply, "Please cross-subsidise us because we're small players, or something, in the industry." That is inherent obviously in what they say, as well, but there is an argument that benefits are more shared than location-specific pricing would tend to indicate. If you're trying to do this and you're trying to write up an explicit set of principles, CSOs are obviously a better way of stating a principle than examine whether they are networks or not because of course that's a - if you offer the option of people finding a network they'll find one and claim that somebody at the other end of

the network should be contributing.

**MRS OWENS:** But if you're going to find a principle you've got to build - even with CSOs - that on something and you said that the CSO is going to run out at the end of the financial year, so the question is: what happens then?

**MR HARRIS:** That's right. As I said, it's a policy issue for the government whether they maintain it, but the idea was - I think we had this for three years - we started it peak level and we phased it down. The intention was that we would introduce competition and that alternate suppliers might come in and provide the services. Competition hasn't emerged, in part because the regulatory structure hasn't been able to allow it, thus the idea that you would get another bunch of service providers in there, even if they were capable of making it a cheaper operation, is certainly looking in the current time frame as wholly improbable.

Whether it's a solution in the long term - it's pretty difficult to believe that you could take an airport - as some of the bush airports are, like Tamworth, where it would be about \$30 a tonne versus 675 a ton, which is the subsidised price under the CSO - it's pretty improbable that somebody could come in and through a more efficient operation drive the price down. It's just got too few users for a tower and yet those communities want to have towers at their airports, in part for safety reasons and in part because they believe that attracts additional business.

**PROF SLOAN:** What, having a tower?

**MR HARRIS:** Yes. For example, towers are used to maintain training facilities and Tamworth has an aviation training school there and they believe if we shut the tower it would disappear, and that's quite possible.

**DR STEWARDSON:** I thought there was some thought with the less used airports of in fact operating them without towers. There is some sort of cut-off point, is there? I thought there was some thought of operating some of the very small airports without towers and you used the phrase - I don't know whether it was intentionally or unintentionally - that "the local people liked to have a tower". It seems a slightly irrelevant indulgence for them.

**MRS OWENS:** A bit like a swimming pool.

**DR STEWARDSON:** Can one not get a bit more efficiency there?

**MR HARRIS:** Yes, that's quite right and we will have those standards for disestablishment of towers - as it is called - and there will be a standard published by CASA for that purpose. It will say, "Below a certain level of aircraft movements at this airport you are not required to have a tower." In one of my set of dot points at the start about principles involved here, the last one is political, social considerations which, in our view, should be drawn to the attention of the government where it has a role in determining the desirability of the introduction of cost recovery, which is

exactly what we do.

We point out to the government that if you introduce location-specific pricing it will mean \$30 a tonne at Tamworth. We posed a set of solutions, one of which was a CSO phase: the CSO out, bring in competition. But if, at the end of the day, none of those reduce the charge to a community acceptable charge - and communities are still relevant whereas governments are making the decision - then the government has got a choice; it can maintain the CSO or it can shut the tower. At least we have a very transparent decision-making process in that sense. You are quite right, I did mention the community in that way and that is simply again a reflection of pragmatics. We know that they are deeply relevant and there have been three towers, of the regional towers so far that have come up for closure, and in every case the government has chosen to keep them open. It has been an explicit and transparent choice, but it's an expensive choice. It is just seen to be expensive and therefore I think we have served the process appropriately if we have made sure that that's quite clear.

**MRS OWENS:** While we're talking about this distribution of costs, you make this point which I didn't quite catch about the insurance approach as an option - that's on your fourth page. What were you actually trying to get at there? Maybe if I read it again now I might understand it, but on my first reading of it I didn't quite - was this about spreading costs?

**MR HARRIS:** Yes, it was. It was trying to say that cross-subsidies between individuals are not unknown in the commercial market - and insurance is a good example of that. Effectively, in my judgment anyway, you share the costs amongst a large bunch of users where you want to share the risk and that's done deliberately by the insurance industry. You wouldn't have insurance if you didn't do that - if you charged the individual for the costs that they imposed on NRMA in a particular year, no-one would take out car insurance.

**MRS OWENS:** Yes. So you are really just saying that insurance is like - the CSO is another form of insurance where you are just spreading the costs across the whole community rather than a subset of the community?

**MR HARRIS:** Yes. I am saying that people inherently have argued that cross-subsidies are a bad thing. I think there is no doubt that cross-subsidies are an inefficient device but, in some areas - particularly in the areas of social necessity - sometimes they are useful. I would call that a cross-subsidisation, but you could probably consider it further.

**PROF SLOAN:** Don't forget there are some serious pitfalls in insurance markets, particularly moral hazard.

**MR HARRIS:** Yes, I agree.

**PROF SLOAN:** So if you think there's some kind of free search-and-rescue system out there, well, you go off and do stupid things, don't you, because you know you're

not going to be actually imposing costs on yourself?

**MR HARRIS:** Yes, quite.

**PROF SLOAN:** The insurance model - there are plenty of contingencies in society that are essentially uninsurable.

**MR HARRIS:** We did make this link here deliberately to draw attention to that. That's a classic area - you might remember Isobel Autissier and her many rescues from the great Southern Ocean.

**PROF SLOAN:** Yes. I would have let her drown.

**MR HARRIS:** At least, though, rather than the concept which people have advocated from time to time of rescuing her and giving her a \$250,000 bill at the same time - which I think it is improbable she would have paid - it might be better to consider how better to recover these costs. An example we have conceived of - it has not been implemented, this is not policy, this is just a concept - is if you could find a mechanism for attributing insurance to - an insurance payment, if you like - people in such circumstances; for example, piggybacking it on the back of registration, as you do in motor vehicles, you can recover your costs across the bunch of users, and I think quite explicitly and transparently and with relatively little chance of people honestly opposing it, because the concept is ultimately that we have a search and rescue facility available both for commercial and non-commercial purposes. We don't discriminate between them.

All the participants therefore who are potentially open to being the subject of search and rescue could potentially pay what I'd call an insurance charge per year which would ensure that from year to year the search and rescue service didn't operate at a loss. It's a concept that does involve this question of the effectiveness of pricing mechanisms as well, because you can do it in motor vehicles because you have a car vehicle registration system and you could piggyback third party insurance on it.

We have some registration systems in transport but we don't have a full set of registration systems and, in part, they are certainly the province of the states. Nevertheless, I think this conceptually is where people might go over the next five years or so in terms of trying to pick up what is a sort of relatively small cost but, nevertheless, one where there is, as you say, some socially responsibility aspects to it. If people think it is costless to be rescued they go and take greater risks than they would otherwise.

**MRS OWENS:** Yes. But we can't be any worse off under an insurance arrangement than we are now.

**MR HARRIS:** No. I agree.

**MRS OWENS:** Because at least there will be some recognition that there is a cost

and it will be confined to the users of marine services rather than to the general community.

**MR HARRIS:** And search and rescue is not cheap.

**MRS OWENS:** Yes.

**MR HARRIS:** Very, very expensive - I mean, almost to the point where you say "per life saved" it can be extraordinarily expensive. In many cases, you don't save lives, you merely find the victims after the incident has occurred. The final thing is, search and rescue - we don't have a dedicated facility in this country in the sense that people have the coastguard in North America, or something like that. We don't actually have a standing entity for this purpose. From time to time there have been claims that we ought to have one. If we were to have one that would be a very large cost which this government would need to consider recovering because it is - something that currently costs in the low tens of millions of dollars a year would cost possibly five or 10 times that much if you had dedicated facilities on stand-by.

**MRS OWENS:** I suppose we have a navy and an air force and they can use it in some way for training, so there may be some benefit.

**MR HARRIS:** There may well be. Nevertheless, it's an expense I doubt you will see the defence force and the defence budget putting its hand up for as first charge. I think they will be looking for civilian funding.

**PROF SLOAN:** I was interested - you might have omitted this on purpose, but in your cost recovery principles it seems to me one of the things that is coming up is: what are the appropriate governance arrangements of the agency which is attempting to cost recover? That includes the form - for example this morning we had some advocacy of the Therapeutic Goods Authority being made a statutory authority, which it isn't. Some of your groups are statutory authorities, aren't they, and have boards and the like?

**MR HARRIS:** Yes.

**PROF SLOAN:** Is governance an important issue in terms of making sure some of these principles are actually put into place?

**MR HARRIS:** Yes. The italics at the end in that political, social considerations dot point, "Where government has a role in determining the desirability" - I think government has impliedly, by creation of a board, rarely explicitly but impliedly, handed the responsibility for initiating cost recovery arrangements to boards. The Civil Aviation Safety Authority gets its revenue from a fuel excise, government money from the budget and recovery of costs for some of its services and publications. It is therefore in the hands of the board - and I am a board member - potentially to determine that that distributional shift - for example, the board could determine, "I want to get an extra \$5 million in my costs recovered through publications and

charges for services over the next 2 or 3 years and that will reduce the burden on the Commonwealth budget."

The incentives for boards to do that when you get the full amount of money clearly established by the government, and particularly where you have got fuel excise as a sort of back-up source of revenue, is fairly low. In those circumstances, as I said, I think the government has given the board really the choice of whether there is cost recovery pursued actively or not. That's not to say there isn't a government policy in place which says, "You should improve cost recovery" - I think there is - but the structure is not really one which encourages a board to do something big and bold and brave, like going out and charging for a safety service in the case of CASA.

**DR STEWARDSON:** Can I ask you your reaction to one suggestion that has been floating around - because you would be coming at this from a different perspective - and that is the whole issue of how people who are in some way regulated or have to pay fees for a particular service can have some input into the decision about those fees, can feel that they are consulted, can have some input into ensuring that the service is being provided efficiently once somebody has decided that it's going to be provided, without at the same time going to the extent of themselves controlling the body, which certainly in the case of someone regulating for safety standards isn't appropriate.

An idea is that perhaps one could establish a thing that you might call an efficiency audit committee which would be like an audit committee of a board, only its job would be to audit the efficiency with which the organisation did whatever it is that is already established that it does, and it would have some rights to appropriate amounts of information - just like an audit committee of a board does - and it would report not to the CEO of the organisation that it is auditing - it would give him or her a copy - but it would basically report to whoever the CEO reports to, which would be a board in the case of a statutory corporation and in the case of non-statutory corporations to the minister responsible.

One very common criticism we have been getting is that where there are consultative committees they're ignored and if the reporting was to the controller of the regulator then that person would have the power to tell the regulator or the organisation to take notice, but he or she would also have the power to say, "Well, thank you, but I don't accept this particular criticism." The audit committee in question, this efficiency audit committee would obviously have some of the people being regulated, or having fees charged to them, on some - say half.

**MR HARRIS:** From my perspective I think you would have to be an optimist to believe that would have a positive impact. I think boards in public sector entities, in particular, have a substantial difficulty defining their role by comparison with private enterprise boards, so they have already got a multiplicity - that's the primary source of the difficulty in defining their role - they have a multiplicity of, if not conflicting, then ill-ranked objectives. "Am I growing the safety authority? Am I meant to increase the number of safety inspections, audits and that? Am I meant to keep costs under

control and therefore, potentially, even though the industry is growing, not expand the safety role of the entity? Am I meant to ensure that there is the least embarrassment to government?" That potentially can come from not being so hard on costs and therefore, potentially, shutting down areas that might have been considered to be of value to some section of the community.

I find the board role to be very problematic. The way we solve that in this portfolio is that the minister writes a charter letter to the board, and the charter letter is effectively a set of clear-cut instructions saying, "I want you to do these particular areas." It doesn't solve it 100 per cent, because I still find that the boards, to a greater or lesser extent - the very commercially-orientated ones don't have too much difficulty. They view their role as being "earn a rate of return on my assets" and keep the government happy that way. But the less commercially-orientated ones, the more you get into areas like safety, they have a great deal of difficulty balancing the many priorities that are given to them.

An external group of advisers, no matter how well-intentioned, becomes another problem in that process, because at the end of the day if you're talking about cost recovery, you're talking about the ability of the organisation to finance some part of its activities, if not all its activities, and the board finds it quite difficult to, on the one hand say, "I need to enhance this area of safety management and for that I will need some money," or "I will need to cut back another area of the business." At the same time I've got an external advisory group telling me that I should be cutting in a different way. They don't have the responsibility but they have got the ability to advise.

I don't say it wouldn't work. I think that Airservices have, over the past seven or eight years run a process that involves direct consultation with users on the setting of their budget, including the capital expenditure program. Airservices are a far more commercial entity than might be normally considered relevant to a cost recovery inquiry, but they still really are driven very much by costs, by earning a rate of return, but by the costs of individual projects and they put themselves to scrutiny with an annual meeting with their industry. That doesn't necessarily very often involve agreement, because you've got the disparate groups in the room who have different opinions about Airservices' ability to deliver, but it's an alternative model that certainly we have considered for CASA, for the safety authority; that potentially by putting the budget, prior to it being endorsed by a board, prior to it being endorsed by a minister, to scrutiny by the industry.

You may get a level of response on either individual projects, which would need to be specified, or alternatively on the degree of revenue being earned from something like fuel excise, which is of great sensitivity to the - which can be reflected by the board and the government in the decisions on CASA's overall management. So I think a committee of advisers, or an advisory group from outside - probably in a government sense - just lacks that level of responsibility that certainly government-appointed boards desperately feel. I'm not associated myself with any government board that didn't feel that at least one of its primary functions was to



ensure that the government wasn't embarrassed. That's quite a constraint on boards.

**DR STEWARDSON:** Would your answer remain the same where we're talking about a non-statutory corporation within a department, where the reporting would be not to a board but to the minister?

**MR HARRIS:** I think that would be somewhat easier, because I have found that ministers have relatively little difficulty determining priorities on a day-to-day basis.

**MRS OWENS:** I think this other issue you raised is of the legal ability to apply a cost recovery mechanism, and you refer to that Airservices case. I suppose it raises an issue as to whether you can tell, *ex ante*, when you're establishing a cost recovery mechanism, which way those sorts of decisions are going to go. That one waxed and waned, didn't it?

**MR HARRIS:** It did indeed.

**MRS OWENS:** There may be a real difficulty sometime, making that judgment as to whether it's a tax or a charge. In this case it fell down to an interpretation about networks and that could have gone either way I would think. Well, it did go both ways.

**MR HARRIS:** It did. In fact, the single judge in the Full Federal Court had one particular opinion and six out of seven, I think, of the High Court had a different opinion, so the judgments are quite difficult. It's just that if I were providing a user's guide to how to develop cost recovery, unlike my usual approach of "design it and then get the lawyer to vet it," I would be saying in this case that you virtually have to have legal advice as you go to ensure that you don't push over the bounds. What the bounds are, frankly, no lawyer is going to be able to guarantee you an outcome in this - - -

**PROF SLOAN:** Doesn't that suggest the precautionary principle would push you towards making it a tax?

**MR HARRIS:** But the government doesn't like putting in taxation bills. So we don't get - - -

**PROF SLOAN:** Yes, but what about the public?

**MR HARRIS:** We don't get the easy solution offered to us very often. The concept that the government is taxing to fund a direct set of services, I've never found popularly received. Getting a view from Treasury, if this becomes important, would be relevant, but there has never been any support for the concept that we can solve this by turning charges into taxes. Basically, instead you just get told, "Find a way of making them reasonably related to costs." I think the High Court decision has actually been quite helpful.

**PROF SLOAN:** Yes, except when you read through our material you have to wonder whether there is any number of illegal charges actually. It's just because the users have not, at this stage, decided to legally challenge - - -

**MR HARRIS:** And it makes a difference between Commonwealth and state as well, where the Commonwealth is restrained in this way and, to my knowledge, the states are not.

**PROF SLOAN:** No, they're not.

**MR HARRIS:** If you did registration charges at the state level you could charge basically what you liked, and if you do registration charges at the Commonwealth level you will have to do them on a cost recovery basis which meets this principle, unless you want to do them as a tax.

**PROF SLOAN:** Maybe it's a good discipline.

**MRS OWENS:** The other point you raised - we're doing these a bit out of order - was the availability, efficiency and effectiveness of pricing mechanisms. You say that any cost recovery mechanism needs to be administratively efficient, and that levying a charge should normally be simple, direct and open to inexpensive collection and enforcement, which sounds fine.

**MR HARRIS:** Fine in principle, difficult to find in practice.

**MRS OWENS:** Yes.

**MR HARRIS:** But what I've proposed, as we go on there, is that where cost recovery has been obviously available and relatively inexpensive to apply it has been applied - I think, in the Commonwealth; where it is difficult to apply, the next step in solving the problem is to look around for a pricing system on which you can piggyback. That is sort of novel territory and it might involve going outside a particular department or portfolio. It depends whether you can target the right bunch of users with it. I use registration again there: motor vehicle registration and insurance being piggybacked, but it's not necessarily the case that you should need to limit yourself to that. The Commonwealth doesn't have too many broader charging mechanisms, but I would have thought that it's possible to go and look across the range of charging mechanisms available in the Commonwealth and see whether a particular bunch of users aren't overlapped entirely by that, in which case you could apply the charge and require them to pay annually, or whenever it is, with their payment, to fill in the blank.

I don't know that that's available, but that conceptually is what, again from this point of view of search and rescue, we might have a look at. How many different registration systems are there? How difficult is it to apply, to a registration system, an insurance payment that assists in covering the cost of search and rescue? That is certainly not a government policy, it's just an idea, but it's the sort of idea that I think

you will need to at least have addressed if we're going to try and move cost recovery another iteration beyond where we are now.

**MRS OWENS:** I think some agencies might interpret this search for administrative efficiency, developing charges which are more like levies where you're not directly associating a particular charge with a particular user of a service, but trying to implement a levy because that's easier. There's a trade-off with that sort of simplicity in that you end up back with this problem of cross-subsidisation and so on. Sometimes administrative simplicity could end up - you could get that simplicity, but the overall efficiency of the system may be compromised.

**MR HARRIS:** Yes, that's quite right. I guess it strays well outside our portfolio, but I was trying to conceive of a circumstances where, for example, if a research levy is paid by a particular set of farmers for a particular purpose, and you also wanted to charge those farmers for some other service, then the smart thing to do is charge them alongside the research levy, even though it might be a different portfolio. It's not a great example, because I can't even conceive of the thing you would want to charge for, but it's this search for administrative mechanism, because in my experience that is one of the primary things that is thrown up as to "why not cost recover?"

**PROF SLOAN:** Yes, feasibility is clearly an issue.

**MR HARRIS:** Yes. If you were only going to recover, because you've got to reasonably relate your costs to your charge, \$1.60 a thing, even though it amounts to some millions of dollars a year in revenue, you find that it costs \$1.20 to collect it, then you're not going to do it. Yet if you were able to charge that \$1.60 per thing, if you could find a group that was overlapped by another charging system, you might be able to design a way that didn't cost you \$1.20 to collect - that it cost you 20 cents.

It seems to me, within the broader economy, people are trying to do that through electronic payment systems; finding a mechanism where people can pay conveniently and at minimal cost, rather than the organisation in particular that wants to get the payment having to incur quite large costs to set up a stand-alone charging system.

**DR STEWARDSON:** Is there not something close to an example of that in your area? Isn't there something that if you're flying off in a little aeroplane to a small airport and then you want to fly back again, you're meant to ring up somebody and get the weather forecast?

**MR HARRIS:** Yes.

**DR STEWARDSON:** You're meant to use your Telstra card or something.

**MR HARRIS:** Correct.

**DR STEWARDSON:** If you don't happen to have it with you to pay that bill, you

can't do it, so an example of where presumably you're trying to make the thing simple, and yet because it's a fiddly little charge it may in fact be cumbersome.

**MR HARRIS:** Yes, that's a very good example. The solution that used to previously be applied to this is that then you would just do a single flat annual fee and hope like hell that that covered the cost. That encouraged cross-subsidisation, because it wasn't terribly transparent how many actions you were undertaking for that flat fee, and at the same time I think this question about charges reasonably related to costs keeps coming up, "Can you prove that that's reasonably related to that cost?"

The solutions of the past are still reasonably effective. It may not be the best. If you can find another way, as I said, of simply pressing an electronic button - that's what Airservices is trying to do through that set of charges - that they will provide a wide range of means of lodging those flight plans and getting meteorological information and of charging, for example, a designated phone number so it won't cost you anything other than the phone call. So as long as you call from a particular number a computer will register that you called from that number and put in for this service and you will just get it along with your phone bill. Alternatively, you can carry a little Telstra charge card and use that. That's a refreshable card. You can lodge over the Internet and it costs you nothing, because that's a costless service as far as Airservices are concerned. There's a whole bunch of ways of doing it, and they show, I guess, the advantages of this technological innovation. I just think that that technology probably could be taken a few steps further particularly if businesses are developing now into private economy where people are effectively running, as Australia Post does, a bill-paying service and a whole bunch of other options like that. Companies are therefore not wanting to run their own collection arrangements because they're too expensive; they get somebody to do it for them. There may be other arrangements that are available to Commonwealth cost recovery on the same basis.

**MRS OWENS:** Can I just ask you a question relating to your last meeting with our staff earlier this month when you were talking about CASA, and the flavour of the notes we've got from that visit is that they don't charge at the moment - for example, for registering an aircraft - and that there's potential to generate a greater proportion of revenue from service fees. I don't know whether these notes accurately reflect the discussion or not because I wasn't there, but I think maybe somebody at some stage said there are fears of alienating its constituency and so there has been a resistance or reluctance to broaden out charges.

**MR HARRIS:** I don't know about that. There is a charge for registering an aircraft, but it's not a charge in any sense relating to or anything to do with either the use of the aircraft or the value of it or anything in that - in other words, there's no linkage between it and what you might consider the nature of the market, the purpose for the vehicle. There's no variation as well based around the amount of regulatory effort that's involved with that aircraft, so there are different constructs for how you might go about charging for aircraft registration. Interestingly it's done by CASA and there's not an absolute link between that and aviation safety. In a sense, say you don't

have to be the safety authority to register for aircraft, but historically that's where it currently lies, and it is an area of great sensitivity, because the larger number of aircraft obviously are registered by private users and they're very sensitive to the idea that they should contribute anything more than, in their view, a low fee for registering the aircraft. But it's a classic example of this question of cost recovery: how much can you and should you recover from aircraft registration?

There's a fair possibility that the charges should reasonably relate to costs; a legal concept would restrict you to whatever it costs you to run the registration system rather than any ability to reflect either the value of the use of that aircraft to the person registering it or linking it more broadly to notions of the amount of regulatory activity that has to go into overseeing it. So there are some restrictions of those kinds that would test the boundaries of what is reasonably related, I think, to say, "Is it reasonably related to charge on the basis of regulatory effort?"

**MRS OWENS:** So is it worth looking at the CASA example in more detail?

**MR HARRIS:** It's a potential example, and there certainly has been some work done in the past, I think, in a discussion paper published on the idea of varying registration charges.

**MRS OWENS:** We will look at that in great depth. Are we seeing CASA - yes, and we can talk to them about it. Have you got anything else, Peter or Andrew, that you want to add to that? No, you think you've said all the right things.

**MR HARRIS:** If you wanted further clarification on anything we'd be happy to help out if we can.

**MRS OWENS:** Good, thanks very much. Once again, thank you for giving us those ideas and we'll take them on board. Thanks for coming. We will now conclude today's proceedings, unless there's anything else. I think the audience of one has already spoken this afternoon. We will resume tomorrow morning at 9.30.

AT 5.20 PM THE INQUIRY WAS ADJOURNED UNTIL  
TUESDAY, 28 NOVEMBER 2000

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