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## **TRANSCRIPT OF PROCEEDINGS**

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### **PRODUCTIVITY COMMISSION**

### **INQUIRY INTO COST RECOVERY**

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

### **TRANSCRIPT OF PROCEEDINGS**

**AT CANBERRA ON TUESDAY, 5 DECEMBER 2000, AT 8.49 AM**

**Continued from 29/11/00**

**MRS OWENS:** Welcome to the resumption of the public hearings for the Productivity Commission's inquiry into cost recovery by Commonwealth regulatory administrative and information agencies. I am Helen Owens, the presiding commissioner, and with me today is my fellow commissioner, Associate Commissioner Robin Stewardson. Public hearings have been held in Melbourne, Sydney and last week in Canberra, and are now resuming this week for a second week in Canberra, and will be held next week 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 out near the bar. 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 will invite any persons present to make oral presentation, should they wish to do so. I now turn to the first participant this morning, the Australian Bureau of Statistics. Welcome, and could I ask each of you to identify yourself for the transcript.

**MR KING:** Ivan King.

**MRS OWENS:** And your position with the organisation?

**MR KING:** Sorry, acting first assistant statistician, information management division.

**MR CROCKETT:** Dick Crockett, assistant statistician, client services branch.

**MR SULLIVAN:** Paul Sullivan, director, secretariat section.

**MRS OWENS:** Thank you, and thanks for coming today. I know we were going to talk to you last week and we have pushed it onto today. I think we have got you scheduled for just over an hour, so I think that should give us plenty of time to run through some of the issues that we wish to cover with you, and as I mentioned before

we started we have had a few participants - and there is one sitting here in the audience today - who have raised issues relating to the Australian Bureau of Statistics, and I understand you have looked at some of those submissions. We may discuss some of those concerns with you later. I understand you want to make some opening remarks.

**MR KING:** Thanks, Mrs Owens. Let me just say our thanks to the commission for being able to reschedule hearings from last week. Just as a bit of background, the ABS as the central statistical authority of the Australian government also provides statistical services to state governments. We also have a broad responsibility to meet the general statistical needs of the community. The statistical work program that the bureau undertakes is determined by the Australian statistician and is informed in that through a variety of user groups, in a variety of subject areas, and also from the Australian Statistics Advisory Council. That's a body established through legislation to advise the statistician and the minister. Prof Sloan was a member of that council a few years ago.

The government funds the collecting and the analysis of statistics through the budget appropriations. Like all government funded agencies we attempt to meet the priority needs within finite resources and we also have an internal constraint, perhaps, rather than an external constraint, to keep the reporting burden on businesses and the community within some bounds. Just a few issues from our submission: the cost recovery program started in 1988 in accordance with government policy. Previous to that only a few large publications, microfiche and some specialised electronic products, were charged, and often then only charged at a nominal value.

The arrangements for charging and being able to recover our costs enabled ABS to do much more than charge for publications and data sets. You will see from our submission, in table 3, that statistical products and information services account for just over half of our revenue. Of those production services they obviously include paper publications, specifically prepared electronic output, online electronic services, regular and special tabulations not included in publications, and the more lengthy information inquiries. The rest of the revenue, a little under half of our total revenue, is from user-funded surveys, most of them are government sponsored, joint state and federal statistical units, outposted offices, statistical advice to a range of bodies and so forth.

Budget funding for the ABS was reduced by \$7 million to offset the charges made for the services that we previously provided free. Let me emphasise that not everything is charged for. There is a significant program of free public provision of information. The objective here is to make key statistical information available to the community. This is achieved through several strategies. Printed publications are provided to over 500 libraries across the nation. They are state, tertiary institutions, public libraries, and so forth. We have a telephone inquiry service for short inquiries. Our Web site has key statistical summaries, explanatory and conceptual material, directories. Media is a key strategy also, to get the data and commentary to the business and the wider community, and of course you will recognise that most of that

commentary is available around the breakfast table.

We note that the boundary between what is free is changing over time, along with general community expectations and needs. As an example, we are progressively including more on the free part of our Web for general community interest. For example, a couple of years ago we put up the Australian Yearbook on our Web site, and that's available and updated regularly. The other aspect of dissemination I wanted to highlight is the ABS is happy to provide statistics through intermediaries. We have an active secondary distribution network. There are some intermediaries who specialise in particular fields, such as census data or overseas trade data, while others provide ABS sourced data along with data from a myriad of other sources and often packaged in ways which more particularly meet their customer needs that we can't provide, or that we don't provide. So that's a summary of where we are up to with our submission.

**MRS OWENS:** Good. Thank you very much. Do either of your colleagues want to also say anything at this stage?

**MR CROCKETT:** No.

**MRS OWENS:** I think there are quite a number of questions. I haven't discussed this with my colleagues but I think there are probably a number of things we wanted to discuss with you, and possibly a good place to start may be to just go back to your cost recovery principles. We will start at first base. This is some of those principles in paragraph 19. I'm interested to know how you decide which products will have a community service obligation, which ones you won't charge for. You mentioned in your opening comments that you have the yearbook now on the Web, and I presume that means that there's no charge for access to that yearbook. How do you make that decision? Is their consultation with your users, or is it something that is decided in-house?

**MR KING:** It is something decided in-house, I guess over time as we hear what people are using. You hear from our inquiry services for the people who talk to the senior managers, regularly of course - like any government agency we are always talking with a range of organisations - hearing what they're saying, and also reflecting on what we perceive as the general community expectations. Many time it comes down to what other sorts of things, for example, that students would be looking at or wanting to access - you know, high school or earlier years of university. What are the sorts of data that they would be expecting to get and that sometimes determines just where we fit the boundary, but there's no formal process of deciding exactly just where the boundary fits. Perhaps, Dick, you could comment a bit more.

**MR CROCKETT:** Yes. Just to elaborate a little bit, I think there are two aspects to that question. For all our collections we go through a process of deciding what it is that we will publish in the form of a publication, and that is a lengthy ongoing process and it is done in consultation with users on a regular basis or through user groups, or often one on one with policy departments and the like. Once a decision is

taken to put out a publication we then currently release the main features of that on our Web site. Deciding what the main features are sounds fairly simple but if you have a look at the main features on our Web site you will find that in some cases there are two or three pages of main features, in others there might be five or six pages. So it depends a little bit on the collection.

I think the other aspect is in terms of publications like the yearbook. It was an in-house decision to put the content of the yearbook up onto the Web site, and that was primarily taken from a view that the yearbook is really main feature-type information on a cross-section of subject matter areas for Australia. So it's seen in the same vein as main features.

**MRS OWENS:** Is there a general trend towards more going, say, onto the Web and being accessed free of charge or is the trend the other way, towards more chargeable services?

**MR CROCKETT:** Here in Australia you mean?

**MRS OWENS:** In Australia with the ABS. I'm talking about the ABS. Which way is it going?

**MR CROCKETT:** I think it's actually going a little bit both ways. To explain that, we are certainly keen to improve community access to information and therefore we're moving with the development of the Web and the evolution of the Web site as a dissemination vehicle to get more main features from collections up on the Web site. Not all of our publications, for example, are represented on the Web site with main features at this stage, but a vast majority are, so we're attempting to get them up for all of our collections. On the other hand we, and other statistical agencies, I might add, are grappling with the issue of what do you disseminate electronically and where do we go from here with the advent of new dissemination services, particularly through the Web.

**DR STEWARDSON:** I think there are about three issues all bound up in this and maybe you could help us disentangle them. One is what you regard as your public good that you're producing and what's your private good and where you see the boundary between them. I think you're saying that by and large your public good is your basic information - sorry, I won't use the word "basic" - the information you collect in the first instance for the government, and that your public good is then having that information in your hands and giving it to the government and that you are then, I think, saying that your private good is providing that to individual or other - other than government - and that that's part of the rationale for charging that marginal cost of getting the material out of your hands to the individual, that that's the private good part, and so therefore one is looking at the cost of dissemination, and given that the cost of dissemination on the Internet is very slight indeed, that significantly changes the whole concept of charging, and indeed one wonders why anyone buys a publication at all if the information is on the Net.

You also gave as one of your reasons for introducing charges rationing, that it was an efficient way of determining what people really want. To the extent that you're moving to the Internet, that would seem to undermine the need for rationing. Once you've put the material on the Internet, it's really no particular concern of yours in a sense whether people come and use it frivolously or seriously. Also you can, I suppose, judge the demand for it by the number of hits on that particular site. So the Internet does seem to considerably change two of the three rationales that you had for your cost, for your pricing.

Then there's also the issue of the deserving customer who doesn't have the funds to pay and that also is, to a large extent, met by what you put on the Internet. I'm sorry, I wasn't really meaning to make a speech, that's your role here, not mine, but there seem to be a number of issues all tied up in what we're talking about at the moment, and I wonder if you could help us untangle them.

**MR CROCKETT:** I'll make a start and try and unravel it. I think the first point to recognise - and I think Judith Sloan referred to this at a previous hearing - the decision taken as to what statistics we collect in the first place is not influenced to any great extent by the demand out there to buy our final products and services. The statistics we collect may be or will be influenced by the demand that we have for user-funded surveys and for these jointly funded statistical units. So when we're talking about charging for products and services, we're really accepting that a decision has been taken as to the nature of the data that we're going to collect, and it's a rationalising of the demand for the consequent output in the various forms that the market might like.

When you look at public good, of course everyone has got a slightly different understanding and definition of what public good is, and we can argue that of the \$250-odd million appropriation to the bureau, then the actual collection and compilation of the data is a large amount of public good. We don't actually differentiate data as such as either public or private good. Our community service obligations have been satisfied by the provision of summary information, I think is the best way I can describe it, through the various means that Ivan mentioned - the media and the library extension program and via the national inquiry service, and - I have missed one of the aspects, I can't remember what it is. So the CSO from our point of view is how we actually get a good cross-section of summary data out there into the community and accessed by the community. Prior to the Internet of course we did it through those means I just mentioned, and now the Internet is becoming a more important vehicle for putting that data up there and making it available.

I should make a point that there are a number of comments about how non-costly it is to put stuff up and make it available via the Internet. I'm not sure that's true - in fact, I'm sure it's not true. Our side at the moment I think has something like 57,000 pages of content up there. I know that in the case of - I think it was statistics, Sweden or Netherlands, they went a step beyond us and tried to make their relational data - or they had made their relational database available via the Internet, but it cost them a lot of money to do it, and I know for a fact that they have

been back to government twice to get a top-up to actually fund the work involved in getting this information up there. So I don't think it's quite true to say it's a cheap form of dissemination, and in fact the ABS experience with the electronic dissemination is quite the opposite. It often doesn't turn out to be terribly cheap.

**MRS OWENS:** But once it's on there it becomes cheaper for the user.

**MR CROCKETT:** Once it's on there, that's right.

**DR STEWARDSON:** You might like at some stage to interject some comments on how, if at all, you feel that should be charged for.

**MR CROCKETT:** Sure. On the rationing side, I guess I've already alluded to the fact that it's more about rationing, general marketplace, demand for the end products. So prior to the introduction of cost recovery, the ABS distributed many, many copies of publications. Fairly quickly after the introduction of cost recovery there was a substantial rationalisation on the part of clients. They found that they did not really want the publications in some cases. In others there may well have been an issue associated with whether they can actually afford it under the cost recovery regime. It also caused clients to provide better feedback to the ABS in terms of what it was they were really looking for in terms of final output. In some cases publications were not the answers and they were looking for alternative ways of getting the information, spreadsheets and so on.

In terms of judging demand on the Internet by the number of hits, can I just say it's early days for us yet to be able to determine how good an indicator of demand that really is. We're getting a lot of hits, as our submission shows, on the Internet. What does a hit really mean in terms of true demand I think is a fairly interesting question and one that, again, a lot of statistical agencies are grappling with.

**MRS OWENS:** We also have that issue as well, because we look at the number of hits for our publications. I don't know what sort of indicator that is of demand, except it's nice to know people actually do look for them.

**MR CROCKETT:** But certainly in recent times we have moved our thinking more towards trying to get a better understanding of the use of the ABS data rather than using revenue as a true indicator or the main indicator of demand. You've asked me to interject on how we might charge.

**DR STEWARDSON:** For the Internet.

**MR CROCKETT:** For the Internet. The approach we've currently adopted is through the introduction of a subscription service, our AusStats service, where there is an annual subscription for downloading publications, time series, files and other multidimensional data sets that we have on the Web. It's integrated with our whole Web Site so that people subscribing can come in and be linked through to any of the data that's on there, whether it's charged for or free. But that's the approach that

we've adopted at this point in time.

**DR STEWARDSON:** What do you do? Do you work out your cost of putting it on the Web and then estimate the number of subscribers you're going to get and divide the one into the other?

**MR CROCKETT:** Yes, basically. We're attempting to cost recover the AusStats development and the AusStats operational costs over time, and yes, that's basically the way we do it. We estimate what the market is likely to be. We have indicated with the AusStats development that because we'll get a better indicator over time of who is using what, we reserve the right to fine-tune our subscription charges so that we implemented more on the user charging basis than we've been able to with the establishment of it. But again it's early days. We only launched that service in April this year, so after 12 months we'll have a look at who's using what, who's downloading what, and then ask the question from a equity user-pays basis what should the subscription charges look like for the future. But all the time we're attempting to simply cost recover the AusStats service.

**MRS OWENS:** Can I just clarify something? Do you have a revenue target? You don't have the equivalent of a 30 per cent target.

**MR KING:** No, we have an internal target that we recognise for our planning purposes within the organisation but there's no revenue target set externally for us.

**MRS OWENS:** Do you see the Internet then as a possible threat to meeting your targets to the extent that a lot of the services you could put onto the Internet you may not be able to charge for in the future? Is there a dilemma within the organisation about using this technology?

**MR KING:** I don't think so. Certainly there are some challenges there. If we go down a path of providing more on the Internet for free so that people help themselves to what's there, then that comes with reduced costs from our other side in providing those services. Therefore, our hope is really there might be a balance there, that if we put up more for free, then people self-help and therefore we have less calls on our other dissemination services than we've got our people and programs sitting behind them - for example, distributing publications or organising our accounting systems and things like that. Where the balance lies we don't know yet, but I guess we see that progressively we'll move further down that path.

**DR STEWARDSON:** Do you think that at the moment you are more or less doing what I think you're trying to do, namely recovering all of the costs of that dissemination part?

**MR KING:** We're close. In some years we have recovered those costs. In most other years we have not recovered those costs by 1 or 2 million dollars. Therefore of course the million or two shortfall is funded out of our existing appropriations by doing less than we otherwise would do.



**DR STEWARDSON:** One thing that has confused me in your submission, and indeed in a couple of other submissions - the same point is made - that because of - yes, you say it in paragraph 30 - user charging and the revenue from that, you're able to expand your services. If the money that you get from appropriation is reduced appropriately by what you get from user charging, I don't see where the extra money is to expand the service.

**MR KING:** I guess there are two components to what we're talking about. Firstly, the dissemination and tabulation of existing data is cost recovered and we try to break even on that. That's the main part of what - people try to get data through a variety of sources. The other part of our charging regime - and it's sort of 5, 6, 7, 8 million dollars a year - is from other government agencies, state government agencies by and large, who commission the bureau to undertake statistical collection work, and that's part of our cost recovery regime as well. So if they want us to do this particular aspect of the work, then they'll pay us to do it. If they don't want that work, then we won't do it.

**DR STEWARDSON:** And that's the expansion part you were talking about.

**MR KING:** That's the expansion part, yes. For example, in para 30 we've given a range of things where that has been achieved through various joint statistical units that are funded - for example, in the first couple of sentences at para 30, indigenous communities. It's shared between an ABS cost and also the Australian Institute of Health and Welfare. The Criminal Courts Crime and Correctional Services is a costing shared by the ABS and the federal and state Attorney-Generals Departments, and so on it goes. Or we move further down the paragraph on some of the surveys - surveys of health and nutrition obviously are Department of Health. One I am involved in in my normal job is on superannuation, jointly funded by the ABS and APRA, and so on for other sorts of things. By doing that it's part of the expansion of the service.

Theoretically, you can organise many of these sort of arrangements through budget appropriations, by transfers between departments in the budget process, but I can assure you it's very cumbersome and it's not conducive to great planning processes, so the cost recovery regime that exists now is a much more flexible vehicle than we have had in the past.

**DR STEWARDSON:** Is the point, the difference, that nowadays you can simply say to the other department, "Okay, if you want it, here's the charge and it's your problem to get the funding in your appropriation, whereas previously in some way you and the department wanting the information would have to say, "Please give the ABS the appropriation." Is that the difference?

**MR KING:** That's right, yes.

**MRS OWENS:** At the same time as you say you have been expanding services, we

have been hearing from other participants that some services are being cut back, and I have got the submission from Dr Mark Paterson here, and Dr Paterson is sitting in the audience, and he refers specifically to information that originally was published - this is relating to motor vehicle registrations, motor vehicle census - was originally published regularly at three-yearly intervals and then the intervals became irregular and he says, "after 1991, as the responsible agencies searched for efficiency and effectiveness under a cost recovery regime". I think there are probably other examples of other services being cut back over time. Possibly you would argue because you're responding to what you see as the demand from users out there.

The problem, as I see it - and I think probably as Dr Paterson sees it - is there are some users out there that possibly can't afford to pay those charges and so although the demand may be reducing, their needs may be exactly the same but they can't afford to pay for it any more. So in terms of your mission, which is I think to provide - I don't know how you define your mission - but it's to provide information to the Australian community so that decision-making can be facilitated or improved. I think possibly it could be a challenge to that mission. Would you like to comment?

**MR KING:** I guess, for example, the motor vehicle census or survey of motor vehicle usage - historically there had been run at three-yearly intervals - that's going back into the eighties - the question was asked in the early 90s, "Is that the right frequency? Are the uses of the data sufficient or is motor vehicle usage changing so significantly that it requires that three-yearly interval in the context of what other demands we're having on our forward work program for measuring much more of the economy.

For example, back in the early 90s we had very little coverage of the service sector in the economy and progressively we have had a redressing of that deficiency - still having to cut other sorts of statistical collections. The manufacturing census, for example, was conducted annually - and a very extensive manufacturing census conducted annually. These days a full census is conducted every five years and in between times we have a much smaller manufacturing survey, major reductions to the agriculture program in a similar way so that resources could be moved to other priority parts of our collections.

**MRS OWENS:** This comes back to my very first question. You're saying some of those priorities are being decided in-house. There is some consultation that some of these priorities relating to what other CSOs are being decided in-house.

**MR KING:** When you try to work out what the bureau's work program is going to be, of course all the collection work is funded by government appropriation. So we're looking at what seem to be the key needs across the community for a plethora of statistics which help the government and industry and the community assess where the economy is going, where the population is going, what are the social issues. Over time, you reorganise your program to meet what you assess as the key needs. So that the assessment of key needs of course comes from a lot of discussions within government agencies as to where they see the needs and, pulling all that together, our

work program or proposed work program is discussed by the Statistics Advisory Council.

Their annual reports presented to parliament will show that over quite a number of years they have been pushing the bureau hard to move into the Service Industries, the IT areas and to get more data in those parts of the economy than the more - I don't want to use the words "old economy" because there's all other sorts of connotations, because some parts of them are not old economy, they're actually quite new - into the more - manufacturing or agricultural and places like that. Transport is one of those sorts of areas which compete, and there's construction, there's utilities, community sector, not-for-profit and on and on it goes.

**MRS OWENS:** I suppose it really comes back to this basic question about the public good nature of your organisation and it may be that public good is something that is expanding over time as there is a new economy and so on. Maybe those other things are still sitting there with people needing to use that information for research which ultimately could have externalities and important impacts back on the community. I think it's a very tricky issue, trying to decide what you're going to do, and I think I said in one of those hearings last week, you know, there is this juggling act and you have got to make decisions about allocating your resources within your organisation between different areas and so on, but at the same time there are disaffected people. Maybe you would expect that but there's possibly research that's not being done now because people just can't get access to the data or can't afford to get access to the data.

**MR KING:** I guess when we change our work program so that we're actually sort of going into a new field and dropping off the frequency of collections in other fields, sure, that means that the data sets are just not available and will impact on the analysis done of that industry, both in government departments and in the private sector, industry associations and whatever else it is. With the finite resources, that's inevitably going to be the situation. You just have to disaffect some research areas and certainly some of the areas where we have had to cut program have been very vocal about that. At the end of the day you have to come to a judgment on where the needs are across the whole community and what is relevant to do.

Progressively, as we move into the service areas - and we have done a lot over the last 10 years - we recognise that a large part of our gross domestic product is contributed by the service industries and to not measure it as effectively as we might leads to quite potentially severe quality problems with our national accounts and we just cannot afford, from an economic statistics point of view, to let the quality of the national accounts degrade, as an example.

**DR STEWARDSON:** Do you try and make some sort of assessment of the importance to the community of the outcome of the analysis that can be undertaken with your statistics in various areas when you decide that you will do a bit more of service and a bit less of something else? You have talked about the support for your whole statistical program but is part of your assessment, looking at the - - -

**MR KING:** What alternative people might use - - -

**DR STEWARDSON:** And the outcomes. For example, you might make a judgment that people being able to work out how many people do or don't go to opera is more important than knowing how many people do or don't take drugs. I'm trying to take some examples that are a bit outside your normal case. I'm not prejudicing your answer.

**MR KING:** I think, yes, in those situations you would take advice from a variety of user groups and, as you sort of hear what people are saying about the need for statistics, not only federal - you're looking at the state government and there's your case of opera - then you're starting to look at - the Australia Council would be quite strong on where the priorities exist in the way that government funding might be distributed in that way.

**DR STEWARDSON:** We seem really to be, in this question we have been talking about for the last five or 10 minutes, looking at not so much your brief coverage of the field per se, but about the depth to which you go in any one field, don't we, and it's there that perhaps you're getting maybe into the more private good area perhaps.

**MR KING:** Yes. Let me talk to that thing. There's not sort of a hard and fast right or wrong answer to that. What we try to do when we run a statistical collection is to cover the main needs as we hear them from the users of the data and particularly assess how accurately or how correctly we can get that information from the respondents. A lot of time is put into pilot testing the forms or whatever the collection vehicle is to see how accurately the information can be collected. There is no point in collecting something if you're just relying on people's guesswork - possibly. It depends on the nature of the questions you're asking.

When we've collected the data, when it comes to provision of the data, we decide what is going to go into our publications, what's going to be the main features and therefore making it an assessment of what is the basic information which we're going to provide free. Then the rest of the tabulations are charged for. Some of them are going to be quite common tabulations that we include. For example, if you're running something on a regular basis then it will be on a time series on our Web site and people can pay for those time series.

If it is a far more complex tabulation that very few might want or maybe no-one might want, we don't produce that up-front. If people come and say, "Yes, we want that," then we work out what the cost of producing that tabulation will be and charge them accordingly. Some of the costs of special tabulations, for example, is going through the confidentiality checking to make sure that our legislation requirements for confidentiality are adhered to exactly, and that's not cheap, but particularly in economic statistics.

**DR STEWARDSON:** Then we come on to what as a shorthand way I'm calling

deserving clients, those who are perhaps individuals doing research, universities doing research - serious, substantial research, but with limited funds. When we visited you we spoke a bit with you about the arrangement that you have now made with universities, which is one group. I'm still a little unclear as to the motivation and the outcome of that arrangement. I'm a little unclear whether you are providing a sort of subsidised service to the universities or whether you are providing a service at lower cost and therefore enabling them to expand their usage and that perhaps your revenue is just as great or greater than it otherwise would have been or indeed whether you are sort of giving them a bit of information and thereby encouraging them to pay more for a necessary extra bit to complete their work. I'm really not very clear about this arrangement.

**MR KING:** Do you want to talk about anything?

**MR CROCKETT:** Yes, there are a couple of aspects to the arrangements that we've got with the universities. I think we mention in the submission that for some time the universities have been a bit critical of the cost of data for research, and there have been quite regular visitors complaining about that. The initial arrangement we set up was in respect of the provision of confidentialised unit record files for research, and these are publicly available at a fee. Unit record files without any names, addresses and so on that have been worked on to make sure that there's no opportunity of identifying individuals and so on. They mainly relate to our household survey collections, although there is one in respect of an economic server.

The difficulty there was that each university, or each researcher, was required to pay 7½ thousand dollars, I think was the price, at the time to acquire one of these confidentialised unit records. There are quite stringent processes in place, by the way, you just can't come along and buy it. You have to apply for it and the statistician has to be satisfied that it's going to be used for the right purposes, and there's a legal undertaking signed by the responsible officer of the university with a possibility of a large fine, or gaol, if the undertaking is not satisfied and so on.

We were keen to get universities to make more use of these confidentialised unit record files, because they are a very handy tool for research, and we spoke with the Australian vice-chancellor's committee and set up an arrangement whereby the revenue return to the ABS was actually a bit more than we were getting from the individual purchasers of the unit record files. But as a result of that we were able to put in place a process where any university could apply for use of these confidentialised unit record files and then return them to the ABS after the research was undertaken. That had major benefits from our point of view as well, in terms of control of these particular files.

We moved on to set up an arrangement, again through the vice-chancellor's committee, for access to our AusStats material. In both cases, the information - the contract is that the information can only be used for academic and teaching purposes, so we're - - -

**DR STEWARDSON:** Including research?

**MR CROCKETT:** Yes, but not commissioned research.

**MRS OWENS:** So they can't go out and consult, using your information?

**MR CROCKETT:** No.

**MRS OWENS:** How can you police it?

**MR CROCKETT:** We do police it quite well, and where they do, they enter into a secondary distribution agreement with us and there's a royalty involved back to the ABS for those university units that are actually using some of our data in that way.

**MRS OWENS:** But it would be hard to police that.

**MR KING:** Yes - - -

**MR CROCKETT:** Well, interestingly, the market polices itself pretty well.

**MR KING:** And we have an audit program.

**MR CROCKETT:** Yes.

**MRS OWENS:** There's a cost to that of course.

**MR KING:** Yes.

**MR CROCKETT:** Yes. The agreement for AusStats is a similar agreement where we get a substantial subscription each year, which enables the universities to have access to the AusStats content for academic and teaching purposes. I'm not sure there's much more that I can - - -

**MRS OWENS:** Yes. To the extent that the universities have now got this arrangement with you, and I think it sounds like a reasonable arrangement for those university researchers, what about other researchers out there that may not be part of a university, or a very small company that may be doing useful work, maybe in the very early stages of developing a product or doing some R and D? Are those other researchers missing out, and are other clients of the ABS really cross-subsidising the universities?

**MR KING:** We're trying not to cross-subsidise. There's a limit to how much analysis we can do of the data and penny-packet it up to check that out, but we've made some tentative suggestions, for example, to ACOSS, whether they want to put together a consortium of other welfare bodies to come under a similar arrangement to the universities, as an example.

**MRS OWENS:** What's the response of ACOSS?

**MR KING:** I think so far they have said they're interested, but we haven't pursued it further than that. We've got some work to do on that.

**MRS OWENS:** It's quite an interesting idea. But what about some of these small companies? We've had another submission from a group called Environmental Research and Information Consortium, it's our submission number 7, and they basically are arguing that for the small companies your information that comes in digital form, the cost is too high, and they were also complaining about AGSO at the same time, whereas they said that in the United States that information would be free.

**MR KING:** The situation in the US is quite different, they operate on different policies. While much data in the US is charged for, the US government has a general policy that information collected by the federal government is disseminated widely and virtually for free. It's quite a different policy from what the Australian environment is.

**MRS OWENS:** What's wrong with that policy?

**MR KING:** It just depends on whether the government wants to put money in and be prepared to fund the cost of resources going to service all those needs.

**MRS OWENS:** And the United States government does, presumably?

**MR KING:** It has a policy, sort of, where information is by and large free; just as if you go to the US anything run by the National Parks Service is free, whereas in Australia that's quite a different position.

**MRS OWENS:** But does it mean that in the United States there's access to a much narrower range of data, or do they get a wide range of data and a good service for free?

**MR KING:** They get access to a wide range of data. Certainly, with some of the different US agencies, if you want access to products in electronic form, or put together in particular ways, you have to pay for that as well.

**MRS OWENS:** You see, in the United States it's interesting, because this is a market economy, good capitalist society, but somewhere along the line the government has decided that the access to information is actually quite important and that it may in some way facilitate the economy or the society to have free access to that information. This is the land of - I don't have to go into what the United States stands for, but it's a great capitalist society, and that has been decided. It's a different approach to information.

I think market economists see that defined market failure is lack of access to information, and that there is a legitimate role for government in filling those gaps,

whereas in Australia we've said, "That's fine up to a point, and beyond that point you're going to have to pay for it. If you can't afford it, that's pretty tough." It's a different philosophy and I can't quite understand how we have gone one direction and the United States has stayed over here. I can't work out which is right and which is wrong.

**MR KING:** I guess I would have to point out to you that there's a variety of differences between the US environment, not only for information but for all sectors of their society and business, which are quite different from Australia too.

**MRS OWENS:** They have a different political system as well, as we know - - -

**MR KING:** Yes, and a different social welfare system and so on like that too. So it really comes down to the government decision on just where you put your boundaries, and I guess we've taken the line that where there is a private benefit then that should be charged for. Certainly we're not charging the full cost of collecting the information. If people want to collect the information from some of the market research organisations, they would pay a lot more than the files that we provided.

**MRS OWENS:** But I mean this comes back to our very early discussion about what is a private benefit, and a lot of these researchers are actually probably doing work where - I mean they might get some private benefit in terms of kudos or publication or advancement, but there's also maybe benefits to the community more broadly if you have researchers doing interesting work on road or transport or whatever, and you've got small companies doing work where they may develop a new product. The economy benefits through possibly greater production, greater exports, more innovation. There may be a private benefit from some of that eventually, but sometimes you can't actually tell ex ante that that private benefit is going to eventuate.

**MR KING:** I can't argue with you on that, that's quite true; just as there are differences in taxation policies, which may or may not encourage such behaviour too.

**DR STEWARDSON:** So basically, you're put in the position of trying to, in a sense, judge in advance whether there are going to be positive externalities from a particular piece of research.

**MR KING:** Yes, as best we can, and basing it on the advice we get from the users on where the priority needs are.

**DR STEWARDSON:** To an extent, that is something that you would have to have decided with or without cost recovery.

**MR KING:** Yes, basically the decisions on where the statistical needs are are done without reference to cost recovery. The cost recovery issue only comes down to how far you go in tabulating more data and how much resources you put into further tabulation and whether you provide that for free, or whether you charge people if they want it. We take a view that once we've done the collection, then our requirement is



to put out basic statistics and make them freely available, and the more detailed tabulations we charge for.

**MRS OWENS:** There's a lovely quote here from Mark, and I'm only doing these quotes because he's here - no, that's not true. But he has put in italics in his submission in para 22:

The questions central to my submission are: has the pricing, after 1985, been a severe deterrent to uses which could yield a community benefit? If so, how widely does it apply? If the answers are respectively yes, and widespread, we should question whether cost recovery, in its present form, is a sensible policy.

That's Mark Paterson, and the other submission I was referring to, the Environmental Research and Information Consortium, puts a plea for the benefits for an open and free access data policy and says:

There is ample evidence to demonstrate that countries that have freedom of information -

I think he's probably meaning free information -

policies like the United States' have the most advanced economies through growth in the new economy, companies that provide information and knowledge services, and an open and free access policy should achieve the following benefits for the Australian economy.

He runs through a whole range of things, like increased productivity, increases in the flow of public data which facilitate R and D, improves collaboration, increases regional development, and attributes a whole lot of other wonderful things to free data. We had another participant, Terry Larkin, who came last week and also said that he and his colleague, Terry Dwyer, argued to the extent that this information is collected it should be freely available to the Australian community. These are all pretty strong statements, and until recently we had the universities also arguing a similar line. They have probably gone a bit quiet now with their current arrangements, but how do you react to those sorts of comments?

**MR KING:** I guess there are various assertions. It's not clear that there is a clear correlation between the free availability of information and all those sort of desirable social and economic goals that are being claimed there, but putting that to one side I guess when it comes down to assessing where the benefits of statistical collections are - you were talking about the transport thing - then we pay particular attention to what the Department of Transport, federally and in the states, are saying, offices of road safety and whatever else it is - and while we are not hearing sufficiently strongly that they want more and more and more data, sure they would like it, but when it comes to a balance of priorities that's where we have to make some judgments, and we're not hearing - I'm not from the transport area so I can't give you chapter and verse on it - but we're not hearing particular things which sort of say that the statistical database is

so woeful as to be unacceptable in this day and age.

**DR STEWARDSON:** When you say you're not hearing that sort of complaint, do you think that your existing set-up of the advisory council, whatever its precise title is, is a good and effective way of giving you feedback, helping to keep you honest, and so on?

**MR KING:** I think when it comes down to a particular statistical field, whether it's transport or construction or environment, or whatever else it is, you get much better feedback through particular user groups associated with that particular field, and so we have quite a number of user groups in particular fields. We have an economic statistics user group which is predominantly looking at the macro-economic statistics rather than a particular subject field, and they're the ones which give the best advice in their given area.

The Statistics Advisory Council is used to get sort of an overall picture across the economy, or society - I keep using the word "economy", it's really across society - on where priorities in general should be set and where the bureau should be moving, more particularly so that they pay a lot of attention to what's happening, for example, with the population census and the forward work programs in economic and social statistics, but you've got a range of people on it from a variety of areas. You've got representatives from state government, a couple of academics, ACOSS is there looking around the table, industry associations. There are about 20 people on the council, and you don't have a nucleus of particular industry pushing a particular line. They are looking at statistics in general, and they provide broad advice on where the major priorities are, rather than priorities in a particular area.

**MRS OWENS:** Do they ask questions about how much it costs to collect the revenue; the administrative costs of actually running the revenue collection program?

**MR KING:** Yes.

**MRS OWENS:** How much is it? Can I ask this question?

**MR KING:** It costs us about \$12 million to provide the statistical service of the information dissemination services and we gain about \$12 million. We think that this year we made a profit of a couple of hundred thousand dollars - was it?

**MRS OWENS:** So it costs you \$12 million to raise the revenue.

**MR KING:** To provide the service.

**MRS OWENS:** And you get just over \$12 million back, so why do we bother?

**MR KING:** No, this is providing the service which includes the cost of the accounting parts behind it.

**MRS OWENS:** Sorry, what I'm asking is how much is it costing to actually run your cost recovery program? That's a different question.

**MR KING:** The accounting component is behind it, right. I haven't got that data.

**MRS OWENS:** Because there have been others that have said it actually costs just as much to collect the revenue under cost recovery as you actually receive in revenue.

**MR KING:** That's not the situation for us.

**MR CROCKETT:** We bring in that cost plus the cost of providing the service. That's what they're referring to I think, when they made that comment that we only just recover the cost, but that's the provision of the service. That's the covering of the marginal costs of disseminating once we put the information together.

**DR STEWARDSON:** Has the introduction of cost recovery had any effect, good or bad, on your organisation and staff? If I can perhaps put the thing in context, some organisation - since it's a public document, ABARE - has indicated there has been at least partially a positive effect in terms of improved efficiency, but then they are much more providing services in competition with private bodies than I think on the whole you are.

**MR KING:** It forces us to look at efficiencies certainly, in that it keeps a driver there. We certainly recognise our prices are high and, for example, our charges for clerical services are much higher than people like, but when you bring into account all the costs of providing those clerical services - I think it's 120, 130 dollars an hour - it's more expensive than getting a plumber, so they are quite high - but when you factor in all the costs involved, that's what we charge.

**MRS OWENS:** I don't think it can be more expensive than getting a plumber, not after you just get one last Sunday.

**MR KING:** Yes, out of hours.

**MRS OWENS:** In my next life I'm going to be a plumber.

**MR KING:** Yes, certainly our prices are high.

**DR STEWARDSON:** In that figure you're talking about you are including on-costs and overheads?

**MR KING:** That's the on-costs, yes, but that's the cost of having a person with sufficient training in the office waiting to do that work - their IT systems, their office and their desks and their training programs and their leave arrangements and their long service leave and their workers compensation costs and their supervisory overheads, and all those sorts of things. We recognise it's very high. It is much better if we can provide services on our Web site that people can extract themselves if that's

available.

**DR STEWARDSON:** One of the things we are asked to do, amongst the rather long list, is as part of our guidelines to see if we can produce guidelines that encourage efficiency in organisations. How do you know that you're doing your job efficiently and do you have any comments about how our guidelines could help you?

**MR KING:** Have you any thoughts on that matter, Dick?

**DR STEWARDSON:** I know it's a difficult question and you might like to come back to us, possibly.

**MR CROCKETT:** I think we would like to take it on notice. If I could just add a couple of points though to Ivan's previous answer, and it touches on the area that you're now asking. I think there have been a couple of major advantages within ABS on the client servicing side since the introduction of user-charging. We outlined some of the challenges in paragraph 14, that there has been I think quite a substantial shift since the late 80s in the way we think about client requests and the way that we actually - I guess, putting it very basically - listen more to clients, because there's an element of client value that comes through with the introduction of user-charging, and I think we mentioned in the submission again that the expectation of value for money is something that runs through fairly strongly now.

The other main area where I think we've seen changes, and I think ultimately will lead to efficiencies, is in terms of our product and service mix. Part of that has been technology driven but the ABS I think looks a lot more critically now at how and in what form and through what processes we get information out into the community in a way that the various parts of the community want - so there's far less of a tendency to continue to do things the way we've done them for years - and looking at alternative means of improving both the access to and the use of our statistics, and I think that has been quite a marked change. In terms of guidelines, no, I would like to think about it.

**MRS OWENS:** You have got other opportunities through this inquiry to come back to us on that.

**DR STEWARDSON:** We are still thinking about it too.

**MRS OWENS:** We are thinking about it and we're thinking increasingly that the guidelines will need to make a very clear distinction between the information agencies and administrative agencies and the regulation regulatory activities, because there are obviously different issues involved and we are developing a case study on the information agencies, which we will set out in our draft report, and so you will have opportunities later to give us comments on that and hopefully participate later on in the process. But at this stage we are really just bringing in information from all sides and trying to make some sense of it. Have you got anything else? Is there anything else you would like to say before we conclude?

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

**MR KING:** Thanks for the opportunity.

**MRS OWENS:** Thanks very much for coming and thank you for the discussion. I thought it was very interesting. It's a shame that Judith Sloan wasn't here as well, because she obviously takes a very close interest still in what the ABS is doing. We will break now for a minute and get our next participant.

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**MRS OWENS:** We will now resume. The next participant today is the Council of Small Business Organisations of Australia. Please could you give your name and your position with the council for the transcript.

**MR BASTIAN:** My name is Rob Bastian. I'm the chief executive of the Council of Small Business Organisations of Australia. The acronym is COSBOA and I'll occasionally refer to it as the Small Business Council or Council of Small Business or something like that, but you'll get the message.

**MRS OWENS:** Good. Thank you very much, Rob, and thanks for coming. We haven't got a submission from you at this stage. We're hoping that you may have time while the inquiry is going to give us something. But we did have a very useful visit to you some little while ago - it was in October - and you may wish to run over some of those comments that you made at that visit. It would be useful to have some of that material on the transcript in lieu of a submission.

**MR BASTIAN:** I would like to make a statement and I expect that most of the things we discussed earlier will come on to the public record, partly I hope through your questions and also through an opening statement. But I should open saying that the fact that COSBOA has not made a written submission in no way diminishes its perception of the importance of this inquiry. It's just that huge distractions are going on in our marketplace in the moment and our resources are not up to covering all bases.

My opening position is, as I previously stated, that basically small business I think regards almost all imposts from the public sector as taxes in some form and it regards in many areas cost recovery mechanisms as effectively double taxation. Whether that's a fair assessment or not it's most definitely my perception of what small business believes as a sector generally. I would also like to put on the record that in their mind cost recovery and cost transfer - that is to say, transferring of labour costs and work from the public sector to the private sector in its many forms - is a similar problem inasmuch as there seems to be a tax going one way and then an increased demand coming from another. Both actually effect on the bottom line of a small firm.

And of course the sector generally does not have either the economy of scale to cope with those sorts of paperwork equally with their larger competitors, nor do the little ones as a sector have the capacity to adjust their prices in quite the same dimension as a larger organisation which is more a price-maker, the obvious example being that before competition Telstra was a monopoly and had the capacity to move its prices up and down and therefore could transfer any labour on-cost or any public sector charge straight out through prices, whereas a small communications company in a more competitive situation does not have that. Similarly with BHP, arguably a fairly powerful player in the production of steel, can transfer on its costs more readily to a captive market. So that's I think what small business feels about it.

Our other position that we also discussed earlier on is that the issue is not one

of morality, it's really about efficiency and delivery. Most small greengrocers in Woy Woy would not understand, but everything that is done in our economy effectively lands in our economy somewhere. One of our central concerns with cost recovery is, because it is so widespread and so difficult to measure and assess, it is difficult to I guess measure the efficiency of the delivery of the service or good for which costs are being recovered, whereas if we send all our money on a tax front by and large there is some political pressure to efficiency from the public sector, whereas of course in the private sector you have a more active competitive regime for price. So I think all up - and I'll stop my opening statement now - small business is very uncomfortable with the whole notion of cost recovery and they just regard it essentially as a double taxation. That of course is a fairly crude position but I'm sure that's the way they feel about it.

**MRS OWENS:** Thanks, Rob, and thanks for coming. Can I ask you, would small business see that it would be reasonable for government agencies to charge if they get an actual benefit back for the service or whatever they're receiving?

**MR BASTIAN:** Naturally one hopes when one pays one's taxes one actually gets a benefit back.

**MRS OWENS:** It may be diffused.

**MR BASTIAN:** Yes. The argument that is generally put in that situation is that the user pays a little bit more in order to direct the service. That's typically what government agencies say, that by responding a little bit more directly to demand the taxing process - which I guess, if we acknowledge that tax recovery is a taxing process - is more sharply focused and more precisely directed. I don't know about that. I just simply don't know enough about the control mechanisms. Maybe your code could be strict and straight in order to ensure that that is the only criterion against which costs should be recovered. I think we could wallow around on the principle of cost recovery. I think we should focus, in my view anyway, the problems related to it and how it might be managed.

**MRS OWENS:** I think we have to wallow around in both actually - - -

**MR BASTIAN:** Yes, fair enough.

**MRS OWENS:** - - - because we have to develop some guidelines.

**MR BASTIAN:** Okay.

**DR STEWARDSON:** We do have an issue that comes up in an awful lot of the individual cases, regulatory authorities and so on - assuming there is to be a cost recovery for the moment - of how to spread that cost between users; and basically do you charge a fixed amount, an equal amount for each instance - for example, each product that the Therapeutic Goods Authority has to test - or do you in some way try to take note of the size of the client and make some sort of charge based on turnover,

say, of the client. And both these methods have disadvantages. The first one I guess you would say is hitting the small player too hard. The other one - we have people making submissions saying, "How very unfair when we're just getting the same service, but merely because we operate on a large basis we're bearing the brunt of the cost." Do you have any thoughts on this?

**MR BASTIAN:** Yes, I do. I am uncomfortable with the position that you ascribe to me and I'm being careful because I know why you assume - you would expect me to come back and say small people can't afford it, therefore they need support. I think I'll cling to the basic premise that the marketplace should sort out the price of a good or service fundamentally. I think particularly of Telstra's dilemma at the moment with Touch 2000 phone costing one price for a domestic client and another price for a business client. The line rental is almost double for a business client for exactly the same product. We have been stringently opposed to that and Telstra has tried to alter the product character by fiddling with its response times and line clarity and other things, but the truth is they are actually trying to get around essentially a moral judgment made on the product. If you're going to offer the same product to two clients and price it differently on moral grounds you really are starting to test the marketplace.

So my instinct would be that if a good or service is offered into the marketplace, in the marketplace, in a market mentality, the price of the product should be the same for whomsoever buys it. Then in my view you have to go back to whether you should be doing that at all, right? There's a second issue. This is a fairly deep question. There is an issue here of competitor neutrality and how you achieve competitor neutrality from a public sector agency to a private sector environment. I have huge troubles with that because the NCC in my view has been quite ineffective in managing competitive neutrality through various Australian governments.

I think we talked about the Coachtrans example at the last meeting, wherein they have run something like 2 or 3 hundred thousand dollars worth of legal fees for three or four years to try to achieve some sort of competitive neutrality between the Queensland government's rail service between Brisbane and the Gold Coast and Coachtrans bus service between Brisbane and the Gold Coast, and the subsidy or the cross-subsidy from the Queensland government to the railway service exceeds by a factor of two or three the seat price of the bus.

That company has fought and fought and fought and fought and in fact both the NCC and the Queensland Competition Authority have agreed with Coachtrans but the premier of Queensland's department says, "Bad luck." Public benefit is then brought in as a sort of a catch-all - my point being, to come back to your question, that I as a person who basically likes the marketplace to keep things clean and tidy but has a worry about the amassing of power at certain ends of the marketplace, which is a separate issue - - -

**DR STEWARDSON:** And we are largely talking about regulatory bodies - - -



**MR BASTIAN:** Yes.

**DR STEWARDSON:** - - - or information ones that are in a more or less monopoly?

**MR BASTIAN:** I think it comes back to my core opening statement that we are extremely uncomfortable about cost recovery basically because it seems to be another tax. If you press me on your original question then I would have to say I believe any good or service in the marketplace should be purchased at the same rate, and that if society believes that some disadvantaged group needs support that should be through some sort of tax relief or some benefit. I'm drawing an example there across from the welfare community, which also approached Telstra saying they should get special phones and special support when Telstra was trying to go into competitive arrangement. I think if society determines that these people need support it is the state's responsibility to deliver the support and not the private sector. Bit of a convoluted answer but it's a trick question.

**MRS OWENS:** I think actually it's quite an interesting answer. As Robin said, some of the issues we're looking at relate to regulators who are really monopolies - - -

**MR BASTIAN:** Absolutely.

**MRS OWENS:** - - - and they are regulating. So you don't have a market price. And in other cases you've got some information for example that is being provided where there are no competitors in that marketplace. So again there is no market price. So it's a monopoly provider of some information and in some areas I suppose the ABS falls into that category. So there's no market price that you can go to. So competitive neutrality doesn't come into the picture.

**MR BASTIAN:** What I'd like to respond to that - leap in quickly - that come up at our last discussion very firmly and you seemed interested in a letter that I'd written to EPAC in 1993. I think, particularly taking ABS's case, the ABS is a particularly sharp case for me because about 99.9 per cent of the correspondence I receive across COSBOA's desk is from the public sector, asking me for questions and for answers that really are already available in the public domain, and there are countless inquiries and ABS research documents and university research documents. And what it has come down to is that there are many people in the public sector - not in the regulatory side of it but people who are just trying to develop policy to help government - don't understand small business and they come to an organisation like my own, and presumably others, seeking support, but they want quantification. They don't want opinion, they want quantification.

Usually I am actually required to purchase ABS information in order to go back to answer a government department. I find that particularly onerous because we don't have deep pockets. Much of my job in COSBOA is reassembling existing facts in order to present them in a clearer position for government agencies. So for me in particular to actually have to purchase the information in order to turn it round and give it back to government I find a bit of a demand, but I haven't - - -

**MRS OWENS:** I suppose if I was the ABS I might say, "Well, if you didn't purchase that information it may not be available at all because all we can do is only collect that information in that way if somebody pays the price, otherwise we may not be in a position to do that."

**MR BASTIAN:** No, that defeats my original point that there should be no price at all. The ABS is an agency of government. It is collecting information specifically for the treasury. The fact that the treasury is asking me through another voice to provide answers for which I need the answers to interpret - I mean, this is a very convoluted argument but I think the central point that I made on opening is that the ABS is there to collect information. How can we run a country or a society if we starve the populace of the information we need in order to engage in public debate and direct our politicians? I mean, it's just like burning books.

**MRS OWENS:** But I mean I think they did make a very valid point, that they have finite resources.

**MR BASTIAN:** I have no doubt about that. Increase taxes and pay the ABS three times as much. I have no problem with that. It's the mechanism.

**MRS OWENS:** But your members might have problems with increasing taxes, given your initial comments that they see cost recovery as just another tax - - -

**MR BASTIAN:** True.

**MRS OWENS:** - - - which implies that they don't like the taxes very much.

**MR BASTIAN:** No. I come back to it. I said also earlier on the greengrocers really don't understand how the economy works and would probably not be comfortable with the position that all costs in the economy are costs in the economy. We're arguing about where the costs are applied and how efficiently they might be applied and measured, right? I don't believe that taking a cost which might be applied from government across to - take the ABS - as a neat cheque at the end of the year - I don't think that is less efficient than smearing it across 3 or 4 hundred thousand small businesses in little bits hopefully, right?

The economy of scale issue for us is something we struggle with all the time and much of the transfer of public costs - which is what I was talking about, and that's what we're talking about here - out to the private sector is merely a concealing of the cost in the economy. If this country wants a superannuation process then have a superannuation fund and pay for people in their old age, but don't smear it across a million employers with all the inefficiencies that that brings, and hope that because you've lowered revenue costs just a little you've actually been more efficient. I don't think you have. Can I just run through - the last conversation we had there seemed to be some interest in the submission that we made to EPAC, and I've actually got it out and copied it and I brought it across. I should have sent it in but didn't.

**MRS OWENS:** Are you going to table this, Rob?

**MR BASTIAN:** Yes, I'll table this document.

**MRS OWENS:** Good. Thank you.

**MR BASTIAN:** But I'll read the main point into the record because it's essentially reasonably straightforward: to resurrect the concept of price as a proper measure of efficiency of delivery in the Australian economy. In key areas of the Australian economy - economic activity - the traditional price of goods and services no longer relates to the real cost of production. Wages have given way to a raft of unquantifiable on-costs and no longer measure the real cost of labour. Rent has given way to undefinable occupancy costs and shadowy deals and no longer measures the cost of commercial tenancies. Taxes have become confused by a wide range of government cost recovery mechanisms and public sector entrees into commerce. They no longer reflect the real price of the public sector. Interest is confused by entry costs, exit costs and a plethora of socially motivated types of money and funding.

The net effect of these and other distortions is that many laws have become confused as legal definitions expand and become complex to administer. Simple and/or economic policy debate has become almost impossible. If we are going to run a society in which the people direct the government we have to give them the tools to engage in public debate and I think it's a real issue. It's extremely difficult to engage in a clean public debate when such fundamentals as wages, rent, taxes and interest really do not describe what the person using them thinks they are talking about.

I have a deep concern about that and that, I guess, is at the bottom of this opening statement. I know this is a simplistic approach but I still believe the points being made are quite important. There is a sense of isolation and dislocation out there, which is as intense as I have ever seen it in 15 years in this business. Ms Hanson came from, I believe, more of an expression of concern out there about losing control of the reins of the country. 8.5 per cent of the primary vote. That's a lot of people saying, "Hey, we don't feel empowered any more."

**DR STEWARDSON:** You're talking about your members having or not having an effective input into the more macro aspects of government in that discussion but, in terms of our inquiry, we have to draw up guidelines and one of the things we have to look at is how the customers of information agencies and how the regulated industries and companies in a regulation situation can have an effective input to help the efficiency of the organisation and also to let them be satisfied that it is being efficient and charging them appropriate amounts.

How we can have that input in the case of the regulatory agencies without the regulated controlling the regulator, which would reduce its independence, and we can perhaps dream up some ideas which would give some sort of appropriate standing to biggish players where there are relatively few large things, but how can we effectively

involve your members in that sort of process? I mean, for example, ASIC, they all pay their - what is it? - \$200 or whatever a year. APRA and, in the more industry-specific ones, other than perhaps an organisation like your own, having a seat on an appropriately strong committee, how do your members get this - - -

**MR BASTIAN:** It's a very far-reaching question. I can only perhaps respond to it in terms of my own experience. I don't claim to be quite lateral enough to come across that one. The things that have hurt quite recently that I think are the issues you're talking about - take an example: how we approached the exposing of Telstra to competition and how we exposed the access to energy to competition. Two totally different approaches were taken and I think there might be a very big lesson.

When Telstra was forced to engage in competition the model chosen was that it had to engage resellers and involve resellers in the marketplace and it had to effectively mark down its product. It was a bit difficult for small firms to get organised but it was at least legal to aggregate the purchase of the product in order to take advantage of the one thing small business should have, and that is a capacity to group purchase small purchases.

The option 8 deal was the most popular and ran like wildfire. I think some greater attention could be given in a case like that to facilitating the aggregation process because small associations, frankly, are not as organised as big ones and they're a bit slower to the mark. If I can then run to the second model: with gas and electricity it was actually made illegal. It was made actually illegal to aggregate the purchase of gas and electricity in order to reach the thresholds of the - basically a top-down management process.

I can't remember the thresholds but I think 750 kilowatts was the first tranche or the second tranche that were offered out. What this meant was that large organisations were able to purchase huge - and I mean 50 per cent discounts - on gas and electricity for a period of time - something like a year, a year and a half. Even if small business had been able - and we tried - to aggregate the purchase of that service - in other words, collect our members together and make a bulk buy - it was actually not legal so to do. In fact, now, four years into that opening up of the market, the market is no longer as hot and, as we have stepped down from the 750 to, I think, about 250 now, I believe the market might be 8 or 9 per cent, so - - -

**DR STEWARDSON:** And there are in fact intermediaries that do the aggregating, aren't there?

**MR BASTIAN:** Yes, there are now but, at the start, it was not legal to aggregate and what was occurring was fairly slick looking people were attempting to get small firms to commit four years in advance to buy slabs of energy way out when, and the sector just does not respond to that. What is a lesson? To respond to your question more directly, when these goods and services are being outsourced or even to try to get harmony across them I believe there needs to be some sort of very firm statement in the code that they have to start from the bottom and work up as distinct from

starting from the top and working down. Now, that may sound simple, but if you - - -

**DR STEWARDSON:** Sorry, I don't quite understand what you mean.

**MR BASTIAN:** Basically, if you are exposing a product or a process to the business community or asking for some sort of cost recovery, you should institute a regime that serves smaller players first; that is to say, it may well mean that the agency has to go through some awareness-raising process, some communicative process with organisations like our own and others, but some direct firm attempt to ensure that smaller players are aware, understand what's going on and are not disadvantaged by coming to the market either ill-informed or late, and it's nothing more than saying, "Look after the pennies and the pounds will look after themselves." Unfortunately, most of these sorts of things are understood by large organisations with departments that are paid to understand the advantages of these things, so it is a dialogue issue, if that helps - you would expect me to say something like that.

**MRS OWENS:** Can I come back to your initial statement that you read into the record a few minutes ago? I think what you're really raising is an issue of transparency and you were talking about these issues - wages and taxes and so on. They're getting fudged because the world is a more complicated place and with taxation we now have cost recovery, so you really need to be able to look at what taxes companies are paying and then see what charges they're paying on top of that and I suppose it raises a range of issues, but are you arguing that you would prefer to abolish all fees and charges and just have your companies pay tax? What do you want to see happen?

**MR BASTIAN:** I believe that - - -

**MRS OWENS:** Or do you want the fees and charges to be more transparent?

**MR BASTIAN:** No. If you were to ask say several hundred thousand small business persons I am absolutely convinced that that is what they would want essentially. Right?

**MRS OWENS:** But would they want a very large increase in tax? That would be very transparent but they mightn't like that either.

**MR BASTIAN:** The small business community - that's the association and industry reps that I work in - actually met with the treasurer and argued for an increase in company tax rate. The reason we argued that is because we are smart enough to realise that most of the reason you have taxes and trusts and companies and funny legal entities is because there is tax benefit to do so and to align the company tax rate with the higher personal tax rate would remove a lot of the pressure to form these artificial entities.

Another example of small business seeking clarity over price - which is what I

am actually saying here - I ran a tax forum for the tax commissioner down at Frankston, maybe seven or eight years ago; three or four hundred small business people, three or four hundred tax agencies, and there was no doubt that the - no-one wants to pay extra taxes but to get clarity and to know what you're dealing with and to have both feet planted firmly on the ground and moving forward, strongly and safely, small business is less concerned about the extra small margin of tax and more concerned about the certainty and, in part, because the uncertainty costs like you wouldn't believe it.

We have to engage accountants and people we don't control and understand, so to answer your question, yes, I am absolutely quite convinced that small business would rather an increase in tax to remove these other costs, but I am actually suggesting to you that you would remove greater costs than you would increase the tax because I'm suggesting to you that smearing these charges across multiple businesses is a costly exercise in the economy.

**MRS OWENS:** But earlier you actually made a point - I think it was right at the outset - that if they are going to pay user-charge, it may give them the opportunity to direct the service that they're getting in some way.

**MR BASTIAN:** No. What I said was that that is the normal response from your side of the table, or from the ATO's side of the table; that to direct a serviceable charge is actually a more efficient process inasmuch as only the people who want to use that service will pay for it. The downside is we lose control because there are so many of these costs and charges and of course small business doesn't trust the bureaucracy. There seems to be just a plethora of charges out of control.

Maybe your code will help address that, but the perception from the ground is everyone and his dog can impose a charge just because they can't live within their budget. There is even a belief, and it has come up a number of times in COSBOA's meetings, that they thought all revenue collected by public agencies had to be returned to revenue; in other words, that an agency collecting couldn't benefit from it. It should go back to public revenue.

**MRS OWENS:** Some does go back to consolidated revenue.

**MR BASTIAN:** I understand that, but there is some - - -

**MRS OWENS:** Some gets fed back, yes.

**MR BASTIAN:** If I could just zero in on the interest one. In this notion of clarity, banks charge a whole pile of different fees and charges for services now and the public, or the community, is reacting to that. There is absolutely no reason why all of those charges could not be applied for individual services and then brought back to an effective rate of interest charged - an ERIC. COSBOA has fought for that for a long time and the only bank that has ever supported it is Westpac and in fact I can see - there is no reason why the charges and services could not be applied but the missing

link in the public sector side of things is there is no confidence that it is actually under control.

In a bank's case it is simple. If you simply said, "Mrs Bloggs, we're going to mortgage your house and you can purchase this on this type of money and the entry costs will be this, the exit costs will be that. The interest through the period of the loan over 12 years will be that. There's a legal fee, an inquiry fee, \$66 service fee, and the effective rate of interest on all of that over a 12-year period is such-and-such." Bang. In other words, you then have a price but, right now, it is just a whole pile of different charges and, frankly, I don't think anyone would say they have a real understanding of what, for example, a bank loan really costs, and that is irritating people. The issue is price.

I'm saying to you that similarly with small business they are irritated about what they perceive to be a growth and an expansion of taxes and they can't measure them. They have no control mechanism. They feel disempowered. That is at the root of my opening pitch, which was that they would really rather it all be taxes, thank you very much, because at least they know what they are dealing with. Now, that might not be a wise position but I believe that's their view.

**MRS OWENS:** What about the argument that prices actually act as a signal in terms of regulating the demand for services? You don't think - - -

**MR BASTIAN:** No, I agree. We've discussed this several times in different forms here this morning. I agree that technically price does give you a more direct control mechanism but it's the same argument as a fee for a bankcard - all these little tiny services. They are now so widespread and so confusing and so out of control that people do not know what the price is. I guess to put it in simple terms, if you have 30 or 40 different prices for things, then people can't do their sums and come up with a total price and there is, I think, an expression of concern on that. That's all I'm trying to say. I don't think you're going to get all cost recovery mechanisms return to tax, I'm not suggesting that's possible. I'm simply trying to say that in principle allowing them to continue to expand with no trustworthy or saleable mechanism to control them is not what we want.

There was another point of discussion that came up earlier that seemed to interest you, and I brought along the paperwork for that as well. I said previously when the ASC was formed, it was put into the Senate because essentially a couple of hundred large firms were very keen to have it and the small firms' interest in it was questioned. We went in and supported it and, frankly, on the basis of our support the ASC was struck. It was literally a debate in the Senate. The reason we supported it was because we thought the pennies were being looked after and there was going to be a thing called the closed corporation, a simplified company structure, with that. That wobbled around through Mr Bowen, Mr Duffy and then Mr Lavarch eventually decided that we would not be giving small business a low price structure, a corporate structure.

I referred at that time to a letter in which I had written and summarised our concern about it. I've got that and I'll table it now. But in essence it seemed to interest the commission as an exercise in cost recovery because the corporate fees for small firms go to the ASC, now the ASIC, and essentially small firms do not feel that they get any service for that because Mrs Bloggs typically doesn't ask to speak to the ASIC if her apples are soft at her greengrocer's shop on the corner. So as a consumer protection device it doesn't really work for us.

**DR STEWARDSON:** On the other hand, lack of attention from the ASIC might be something that one would welcome if one is in business. They usually come to you when you're doing something wrong.

**MR BASTIAN:** I don't understand how that relates to what I was just saying. Could you say that again, sorry?

**DR STEWARDSON:** I thought you were making the point that your members feel a little aggrieved that they paid their fee and the ASIC doesn't come knocking on their door. I would have thought that that was something that one would welcome.

**MR BASTIAN:** No, it was more the cost recovery issue of the thing. The ASIC receive something like 250 million or so each year, of which it translates about 150 million or so back to the states as a payback for the transfer of the corporate power to the federal government. When we entered into the debate and endorsed that process, we thought we were going to get a low-cost corporate structure, and that fell over, but the cost recovery process is still running forward.

Most small business people do not incorporate to protect themselves to limit their liability. They essentially incorporate for tax purposes. The corporate veil for a small firm is not well protected; they don't have the legal weight to defend their directors and essentially it's generally one or two small players in a family situation, and they incorporate for tax purposes. The point I guess I'm trying to make is that in terms of cost recovery for the corporate structure that small businesses use, the ASIC is, in my view, and an inappropriate point of connection, and we argued that case when Mr Lavarch put the ASC legislation through.

The point of this letter is that we argued for the best part of four years through three attorneys-general, and were promised and promised and promised a simple low-cost corporate structure, and ultimately on the basis of this letter we didn't get it. We are still paying, I guess, for a corporate structure for which we get little benefit.

**MRS OWENS:** But they do get a benefit. If they're actually incorporating for tax purposes they're getting another form of benefit, presumably.

**MR BASTIAN:** I personally find that questionable too. The legal entity issue - and indeed most small firms do not hold - it's more of an exercise in controlling their destiny than actually gaining benefit from it because the company tax rate for small firms is a non-event. Most small firms do not hold assets in their company, they just



use it as a device to manage an income split and do those things to the principal owners. That is why the corporate entity being directed to the Tax Office, as we had originally hoped, was in our view the appropriate way to go.

Why do I raise it now? Because we're about to open the whole entities taxation thing again, I think. The entities taxation debate that is going on at the moment is an exercise in trying to squeeze businesses out of the entity they're in, those non-fixed trusts, across to a corporate setting which they have not taken up anyway because they don't want to do it. So the underpinning problem there is we missed out on getting the entity we needed X years ago, but that's a bit of a red herring. I'll just table this document here, I don't know whether it will be of any use to you, but it does, I guess, enrich an exercise to show that we did try to do our homework earlier on and fell on our face.

**MRS OWENS:** Are there other issues you'd like raise?

**MR BASTIAN:** I don't think so. I think you've actually drawn out pretty much what we discussed previously. If I do get time I will try very hard to not only make a submission myself but encourage organisations to make submissions, though I'm sure you have submissions from many COSBOA members.

**MRS OWENS:** We have had some submissions that have talked about the issue of cross-subsidisation from large players to small players, and I think we've got one after morning tea this morning - the Regional Airlines Association has raised that issue in relation to air operators, and I think Qantas and Ansett, just in the context of air services, have raised those issues as well, which you might like to look at. I know earlier you said you'd rather not see cross-subsidisation, you'd rather see if there was a need to serve and support small business in some way it should be done through other measures. But just be aware that there are some submissions. One of our terms of reference is to look at the impact of the arrangements of small and medium-size business.

**MR BASTIAN:** Look, without question the central issue here is economies of scale. It's not a complex issue. Whenever small firms have to handle a bit more paperwork or have to make another small charge, they handle it badly. I think it would be true to say that even though the cost recovery charge may be relatively small, the administrative processes that lead to that charge are often more onerous for a small firm than a large firm. One of the central principles in there - and I don't know how you can work it into your needs - is that not only is there an economy of scale issue there, clearly if you fill out a couple of thousand forms you get better at it than if you fill out one or two, or if you make those little payments and understand what you're doing, but the bringing to account for tax purposes is also an issue. Typically a large organisation - and I'm not making a moral judgment - a large organisation, if there's a new service or charge, will put up an office, a couple of computers, two bodies, two chairs, two desks and operate it, and will be brought to account properly within their structure.

However, the average small firm size in the country is only about 3.4 people, and very often these sorts of administrative costs, such as, for example the BAS and other tax costs, are worked out on a Sunday afternoon over a domestic table and that time sort of just disappears. It's hugely important because they don't bring things to account so there's a major difference there. I don't think I'm speaking out of school but I've just completed some work for the Department of Family Health and Community Services on giving in the community, and small business gives heaps out there. One of the irritants to them is not that they want a tax deduction for their "in-kind" contribution, which we worked out at a shade over \$2 billion - they give about 1.1 billion in cash, by our figures which are extremely conservative, and around about 2 billion in kind. They're not actually asking for tax deductions for that work because to some extent it's a spirit giving, but they are irritated that in their mind - and I don't know whether it's true or not - larger organisations handle the in-kind process more efficiently than they do, and it is therefore brought to account for tax purposes. I think that is a fairly serious issue. I don't know, quite frankly, how to deal with it, I've only made recommendations that we sort of sit down and scratch our heads.

**MRS OWENS:** It's probably going a little bit beyond the terms of reference of this inquiry.

**MR BASTIAN:** No, it's the bringing to account issue that I was trying to re-emphasise - the scale, the collective impact of that on lots and lots of little firms.

**MRS OWENS:** I think you've made that point very well.

**MR BASTIAN:** I have certainly tried to.

**MRS OWENS:** I think you've made it before.

**MR BASTIAN:** Yes.

**MRS OWENS:** Are there other issues you'd wish to raise?

**MR BASTIAN:** No, not really. I would be delighted to come back and respond if you have a question which leaps into focus for you. I'm not overly proud of our submission. It's just the way it is. I do believe there are significant competitive issues surrounding the economies of scale. If this inquiry was to recommend further pilot work or maybe some research to better quantify some of the issues we've raised, we've actually done a fair bit of that and we might be able to dig around amongst our files to better present the quantification of some of the costs.

**MRS OWENS:** That could be very useful and we may come back to you on that out of session. So thanks very much for that. We will now break for morning tea and we'll resume at 11 o'clock.

**MRS OWENS:** We will now resume. Our next participant this morning is the Regional Airlines Association. Welcome to the inquiry. Could you please give your name and your position with the association for the transcript.

**MR TERRELL:** Thank you, chairman. Alan Terrell, and I'm the chief executive of the Regional Airlines Association of Australia, which represents a large number but not all of the regional airlines - that is, airlines smaller than Qantas and Ansett - operating in the country.

**MRS OWENS:** Good. Thank you. We've actually got a week of airlines this week.

**MR TERRELL:** Yes.

**MRS OWENS:** We've got Qantas and Ansett. Who else have we got that's related? That might be it. Yes, we've got those two. So we've got a few air issues to sort out.

**MR TERRELL:** I hope that I adhere to the point, anyhow. I'll talk solely about aviation issues.

**MRS OWENS:** Good. Thank you. Do you want to make a few opening remarks relating to your submission?

**MR TERRELL:** If I may just read the four dot points at the beginning of the submission for the record. The Regional Airlines Association is not opposed to the principle of recovery by service providers of the costs generated in normal operations. However, the association does not support the imposition of costs generated by any bureaucratic inefficiencies, and the association is also opposed to the arbitrary imposition of costs generated by services that the industry does not require, and the association also has problems in accepting some of the charging mechanisms imposed by suppliers of aeronautical services. I'll be happy to expand on those points as we go along, chairman.

**MRS OWENS:** Good. Thank you. I think one of the issues that we've been discussing - we discussed with the Department of Transport last week - was the issue of location-specific pricing, which is one of the points that you have referred to very briefly in your submission. Maybe that would be something we could expand on now because I know that is an issue for the larger airlines, who support location-specific pricing, I think because a lot of them use Sydney and maybe not the regional airports.

**MR TERRELL:** That's right.

**MRS OWENS:** But as I understand at the moment there's a community service obligation-type arrangement in place for some of the regional airports for the towers which is going to maybe expire at some stage soon.

**MR TERRELL:** Yes, there are.

**MRS OWENS:** How do your members feel about that?

**MR TERRELL:** Perhaps if I could just go a little back in history, the charging systems that were used by the old Civil Aviation Authority before it became split up into Federal Airports and Airservices and Civil Aviation Safety Authority were imposed essentially on the major airlines and the major airlines were paying for a substantial number of services that they were not using in the country. Quite naturally they objected to that and as a consequence of those objections the concept of location-specific pricing was introduced, and the smaller airlines supported the major airlines in that issue as a principle that people should only pay for the services they actually use.

However, that principle has become very difficult to define because if you take an airline like British Airways, for example, which pays dues whenever it flies across Australia - pays fees, dues to land in Sydney or Melbourne or wherever else it lands at the same level as everybody else, but an international or even a major domestic operator like Ansett or Qantas does not use any or very little of the infrastructure across the country. For instance, a 747 going from Sydney to Singapore would perhaps use half a dozen distance-measuring equipment units across the country but none of the other more than 1000 navigational units that are strategically located across the country.

Even some of the regional airlines would not use a lot of those aids which had been established for historical reasons going back to the days of DC3s and even before that. However, those aids are used substantially by a lot of smaller operators - charter operators, bank run operators, general aviation, private aircraft and what have you - who could not navigate around the country without those aids. Nevertheless they're in a position of not being able to afford to pay for all of those aids because the cost would just be too high if that was specifically allocated to the users. So in fact the major operators have continued to pay a substantial portion of their costs reflecting the cost of maintenance of those aids.

In relation to the provision of towers again the same principle applies. Country towers are not used by the major airlines and a lot of them are not used by the regional airlines, but they're used by a lot of operators. They're established on the basis of the number of aircraft movements going through an airport and the government has allocated a small amount of public funds to continuing meeting some of the costs of some of those aids, but clearly the government is now saying that they don't want to do that any more. The airlines don't want to do it if they don't go there and some of the regional airlines don't want to do it if they don't go there, but yet if those terminal towers and some aids were not there then the safety of aviation would deteriorate in the country substantially.

I think this is where the big difference lies and in my submission I do suggest that in fact I believe there should be a community service obligation to support some of the infrastructure in the country, just as some road structures are supported by

public funds, and some railways, but not all; they are also paid for by public revenue. And that's a major issue that I think needs addressing, and it won't be addressed completely until everybody is in agreement on just how you meet those costs.

**MRS OWENS:** But that's going to come to the fore fairly soon. Is that right?

**MR TERRELL:** Yesterday Airservices announced a substantial cut in en-route navigational charges. I haven't seen the fine print in that document but I am a little bit worried about the effect it may have, because whilst again it reduces the cost for major international and domestic airlines flying across the country and reduces some of the costs for the regional airlines, there are in other areas proposals to reduce services as well and those reduced services will affect some regional operators. For example, a small unpressurised regular transport aeroplane flying, say, between Bourke and Brewarrina will no longer have the service of director traffic information which is provided by Airservices and currently charged for. That service will go, so certainly the charge will go, but the questions arise as to whether that's a good alternative to what we've got at the moment, just on the basis of saving money.

**MRS OWENS:** Yes. Were you consulted on that decision at any stage?

**MR TERRELL:** Not on this latest reduction. Airservices, I do admit, do have an annual consultation process and at the last meeting they did announce a reduction in charges for certain services. But this reduction that was announced yesterday was not discussed with my association and is a considerably bigger reduction than the - and there's another area too which comes into the equation and that is that Airservices and the Department of Transport with the Department of Defence have just announced that defence aerodromes and equipment which are used by civil aircraft will have to be paid for by the users of the civil aircraft, and in return Defence will pay Airservices for the use of the services that Airservices provide to them, which has not happened in the past. There has been a sort of agreement to leave those two issues alone.

The effect that that has to airlines that are operating to government defence airports like Darwin, Townsville, Newcastle, Tindal, Pearce - not many to Pearce but Darwin, Townsville and Newcastle in particular is very substantial because whilst there is an offsetting reduction in airways costs the costs of providing firefighting and tar services will now be charged by Defence to the airlines, whereas previously it was absorbed in this gentlemen's agreement of no cost charging.

**DR STEWARDSON:** Can I just clarify the position, please? You've got three groups, as I understand it. You've got the large domestic and international, but the large domestic carriers; you've got your members, the regional airlines; and you've got a third group - charter, individual and private planes and so on. And you've got the tower facilities on airports, which are an issue, and you've got some of the smaller navigational facilities that you were talking about at the beginning of your statement. The facilities, the towers and the navigational facilities that are being at the moment cross-subsidised or which are being paid by the community service obligation and therefore are at risk if that is abandoned - do they all relate to this third category or

charters and private planes or do some of them also affect the facilities that your members, the middle category, use?

**MR TERRELL:** Essentially they apply to general aviation private operations but there is some portion, some number of those aids that are used by regional aircraft. And that too is a question of definition, and I don't want to get too technical, but for instance if a regional aircraft is making an approach to an aerodrome using a GPS let-down procedure it can only make that approach provided there is another airport in the vicinity which has a non-directional beacon aid working on that airport. That particular airport may never have an RP2 service go to it at all but that aid must be working or else the approach into the destination airport becomes illegal. So it becomes very complicated as to just whether you're in fact using an aid or whether you've got to have an aid there in case the aerodrome closes or somebody splatters himself in the middle of the runway and you've got to go to the other airport because that other airport probably doesn't have the same sort of let-down procedures the RP2 aircraft is going - - -

**DR STEWARDSON:** And the argument for the community paying for the facilities at the smaller end is basically that it's simply too expensive to be a viable thing for those users to pay for. Is that it?

**MR TERRELL:** Essentially, yes. Yes. I know Airservices is suggesting that in fact some of the aids can be closed down, period. But some of the aids, like the one I'm just talking about, which is necessary, could be supported or paid for by the local communities, just as they own and operate their aerodromes, and it would be up to the local community to recover the cost of that aid, but how you actually recover the cost of the aid becomes a very interesting question, because they won't even know that it's being used.

**DR STEWARDSON:** But quite apart from that, you're saying that even if they could know it was being used, the cost of it is so great that it would drive the general - the GAs group - out of business if they had to pay the full cost of all those things.

**MR TERRELL:** They could still operate, but they wouldn't have the infrastructure and navigational aids to assist their navigation and let-down procedures and what have you. In other words the infrastructure that exists at the moment and has existed for the last 50-odd years would no longer be available because they themselves would be being asked to pay for it, and they simply couldn't. There is another point there - you mentioned the community. The sum of money that is paid currently as a community service obligation only represents about 12 per cent of the total cost of running those aids.

**DR STEWARDSON:** So the rest is - - -

**MR TERRELL:** The rest if paid for by the airlines as en route charges at the moment.

**DR STEWARDSON:** So by the big national companies and by the regionals.

**MR TERRELL:** And by the regional airlines, yes.

**DR STEWARDSON:** So basically you're saying your members are cross-subsidising the general air services, rather than being cross-subsidised by the big national airlines. Is that it?

**MR TERRELL:** Yes, although it's all a question of relative size, I think. Ansett and Qantas between them pay about - I'm sure they'll tell you more accurately - but it would be somewhere in the vicinity of 75 per cent of the total cost of the infrastructure in the country. Regional airlines probably pay another 12 per cent or so and the remainder is picked up by the charges. Ansett and Qantas will, I'm sure, tell you that they only use about 10 per cent of the total infrastructure and hence the difficulty.

**MRS OWENS:** Yes, I think they will tell us that.

**MR TERRELL:** I'm sure they will.

**MRS OWENS:** I'm pretty sure. There is a little bit about it in their submission. I'm quite interested in going back to that issue of the firefighting and the Department of Defence starting to charge for its facilities. In the past they didn't charge, but presumably they got services - there was a quid pro quo.

**MR TERRELL:** Yes.

**MRS OWENS:** It was a gentlemen's agreement and so they got services from Air Services Australia and Air Services Australia got services from them, and then some of the operators were charged - presumably by Air Services Australia - and it all sort of worked its way out. Is that right?

**MR TERRELL:** That's correct. I've been in aviation for more than 50 years in this country and this would be about the fourth time that this subject has come up. On the previous three occasions it has been rejected as either too hard or the airlines haven't wanted to pursue it because they would come off worse off than previously. This time I think it's being driven by government policy and cost recovery and what have you. Again, we've got no real argument with that, but we've got to recognise the effect that it's having. For example, there is one airline operating up along the east coast of Australia - and I'd rather not give its name because I can quote some figures - but the change in their costs as a result of this proposal, up until the day before yesterday, was somewhere around \$450,000 additional cost. That was particularly because they use Townsville and Darwin. The total cost of paying for the fire services in Townsville and Darwin, additional cost, was \$510,000 which they weren't paying before, but there was proposed to be a reduction in airways charges which reduced it by about 60,000 to 450.

I haven't worked out the figures for this latest proposal of reduced en route charges but I would suggest, as a rough figure off the top of my head, it's somewhere in the vicinity of another 70 or 80 thousand, so they are still \$320,000 worse off as a result of this exchange. Another airline operator - also operating on the east coast which uses Newcastle - would obviously be affected in much the same way. The defence gets that as additional revenue, but in their turn, when they fly to Mascot or to Brisbane Airport or wherever, they are going to have to pay for their facilities. The bottom line, the idea is that defence will neither be richer nor poor as a consequence of this, but a number of regional airlines will be considerably poorer.

**MRS OWENS:** If that particular airline, as well as using Townsville and Darwin, went to other airports, they would have to pay for those firefighters.

**MR TERRELL:** If they go to Rockhampton or Mackay or Brisbane, they pay for those services, yes.

**MRS OWENS:** So in terms of the normal services they would be expected to pay for, that would be normally what they would pay for elsewhere, but because they've had this deal going for a long time, they've got into the way of not having to pay.

**MR TERRELL:** Yes.

**MRS OWENS:** I suppose it raises a question of, you know, why not pay for firefighting and - - -

**MR TERRELL:** That brings in another very interesting question, too. The provision of a firefighting service at an airport is predicated solely on the number of passengers that fly through that airport and the size of the aeroplanes that use that airport. The more passengers and the larger the aeroplanes, the higher the level of fire service required, down to where you get a cut-off point of - I think it's 350,000 passengers a year, below which you do not need fire services at all. So you get an aeroplane flying out of Brisbane which does a milk run up the Queensland coast, let's say, has to pay for fire services in Brisbane and then it goes to Rockhampton and Mackay and doesn't need to pay for fire services because the movements there are not qualified. Then it goes to Townsville and because Townsville has a fire service it has to pay for those, because the defence requires a fire service to be maintained.

**MRS OWENS:** Despite the fact the movements - - -

**MR TERRELL:** But the airline itself doesn't need that service at all.

**MRS OWENS:** But the movements are lower than they would really need in other airports.

**MR TERRELL:** That's correct, yes.

**MRS OWENS:** Right, so they're paying for a policy decision that has been made.



**MR TERRELL:** That's correct, yes.

**MRS OWENS:** For defence purposes basically.

**MR TERRELL:** Yes.

**MRS OWENS:** If they're actually having a fire service there because Defence wants it for other reasons, they are actually paying for that decision.

**MR TERRELL:** That's correct. The same applies in relation to the level of service provided. Air North, for instance, who are based in Darwin recently had a substantial increase in their fire services charges because Malaysian Airlines started operating an A3-30 through Darwin, which moved it from a category 9 airport to a category 10 airport, and required an additional fire-engine and additional staffing and what have you, so their fees went up. Yet when they take off from Darwin they might go to Barula, which doesn't even have electricity, let alone a fire service, so they're again paying for a service which they don't use.

**DR STEWARDSON:** What is the solution to that? Do you grade the airline rather than the airport?

**MR TERRELL:** If you really take the argument, user pays for location-specific pricing, you should say that an airline like Air North flying a Brasilia should not have to pay for fire services anywhere, whereas a 737 being operated by Ansett should pay certain airports and should not pay at other airports. But I think that argument is not likely to get up because, again, it becomes far too complicated and unfair.

**MRS OWENS:** It's too complicated, and I understand that really, when you think about airports, you're thinking about networks of airports.

**MR TERRELL:** Yes.

**MRS OWENS:** And so it may be more appropriate to actually charge for the ability to access a network of facilities, rather than individual facilities. Isn't that correct?

**MR TERRELL:** I think that's so. If, for instance, Darwin charged for landing an aeroplane at Darwin, and whatever went into that charge covered all the services and the terminal and parking and everything else, it would certainly be a lot simpler. But then you've got a whole series of different authorities being involved; you've got fire services, you've got air services, you've got the airport itself and a lot of those are now in private ownership.

**MRS OWENS:** I think one of the issues we'll need to confront when we're looking at developing our guidelines is this issue of complexity and needing to ensure that you don't take user charge into the level where it becomes silly, where you are charging for individual services which make a very, very complex charging arrangement, so we

need to be thinking about this. But we need to actually have the underpinning to justify other arrangements.

**MR TERRELL:** Yes, I wouldn't disagree with that at all. I think there is a basic concept there.

**DR STEWARDSON:** You said, as your fourth dot point, that the association has problems in accepting some of the charging mechanisms imposed by suppliers of aeronautical services. Are the sort of things you had in mind there the matters that we've just been talking about?

**MR TERRELL:** Essentially, but it's slightly broader perhaps, or maybe this additional aspect of it. Airservices has very recently - in fact only last week - introduced a new system for charging for the provision of aeronautical information to pilots and to operators, like flight plan information and that sort of thing. We did discuss, or the industry and Airservices did discuss the concept of again user pays in relation to this particular information, and generally there was agreement that that should happen. But the mechanism by which those charges were introduced was not discussed with the industry at all and they were arbitrarily introduced and requirements such as computer access, phone cards and so on have become a requirement.

That's fine as far as it goes, but as I said, we have regular public transport that goes to airports that don't have electricity and don't have telephones and you can't access the system through a normal mobile phone, it has got to be use of a phone card. So because they have introduced an arbitrary system of the way they charge, there are a lot of airports that are missing out on the convenience and pilots missing out on the convenience that they had before. The final fall-back position is to use the aircraft radio, which you can do, but there again that substantially increases or could substantially increase the number of transmissions from aircraft, and there is only a limited air time available for any transmission and if you get a lot of flight plans being lodged and what have you, there isn't time for any of the other stuff.

**DR STEWARDSON:** In all this whole business we've been talking about, of basically the cost of some of the smaller airports either being over-excessive because of over-servicing, or because the cost of what is essential there is too great for the smaller users, are there any lessons from Canada which presumably has somewhat similar sorts of issues to Australia?

**MR TERRELL:** Yes, I suppose there are. I think just going back to your first point, the complexity of the facilities that are available - as I say, go back to DC3s and in some cases even back to Stinsons. They are probably not necessary, but because they've been there for so long and nobody has really got down and said, "Well, we need that aid, but we don't need those three, for these reasons." Airservices, to their credit, and the Civil Aviation Safety Authority, did try to do that a year or so ago, but unfortunately - and the industry was working with them to try and work that out - there was a big hue and cry from the country at that stage saying, "Oh, we can't afford

to lose our aid," and regardless of the fact that it was necessary or unnecessary the government of the day said, "Back off on that issue," because there were certain rural issues which the government wanted to be on the right side of, I suppose. That issue was not put to bed, but postponed. I believe strongly that that particular issue should be taken up again and that, in itself, could lead to substantial cost reductions - done properly, without emotion.

**MRS OWENS:** Thank you very much. We will raise some of these issues again when we're talking to both Ansett and Qantas tomorrow and, I think, the next day. But you've given us a very good grounding and I think - it's interesting that some of your issues will be common to them and - - -

**MR TERRELL:** Yes, there will.

**MRS OWENS:** - - - maybe there will be some issues that are a little different.

**MR TERRELL:** Yes, the principle is very much the same, but their scale and operating environment is different.

**MRS OWENS:** We will probably also raise the issue with them about the aviation fuel excise as well.

**MR TERRELL:** Yes.

**MRS OWENS:** And speak about that in more detail.

**MR TERRELL:** Good.

**MRS OWENS:** Good, thanks very much for coming.

**MR TERRELL:** Thank you, chairman. Thank you, doctor.

**MRS OWENS:** We'll just break for a minute.

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**MRS OWENS:** The next participant this morning is the Australian Bureau of Agriculture and Resource Economics. Welcome, this morning. Thank you for the submission. Would you like to give your name and your position with ABARE for the transcript?

**MR ROSE:** I am Roger Rose. I am the chief research economist at ABARE.

**MRS OWENS:** Good, thank you. As I said, it's really a very useful submission for us and there are a lot of very interesting issues that come out of your submission. Hopefully we'll have enough time to pursue some of those as we're going through. Roger, I understand you just want to draw out some of the highlights for us now.

**MR ROSE:** Just to emphasise a couple of points, as is obvious from our submission, ABARE has recovered some its costs over a long period, but through the 90s we've been through a period of rapid change. What began as a move to facilitate interactions and joint funding with the rural research and development corporations, and to give ABARE a little bit more flexibility, has led to a point where about half of ABARE's budget is cost recovered. The ABARE of late 2000 is a very different organisation to that of the late 80s. Quite a bit of that is related in some way to the changes of cost recovery.

We have suggested in the submission it would be difficult to assess the degree of dependence between changes in cost recovery and changes in budgetary allocation, so we haven't made any attempt to go through and separate out the effects of changes in cost recovery arrangements and appropriation funding. But if we take the sequential falls in appropriation funding as given, the cost recovery arrangements have done two important things. They have allowed us to maintain a greater deal of analytical ability and they've allowed us considerable flexibility in terms of the resources that we have access to and research directions. We would argue that there has been a substantial public policy benefit from that greater analytical capacity and the greater flexibility. We've had a shot in our written submission at giving some indicators of some of the kinds of benefits in a public policy sense and in a benefit cost sense of some of what ABARE has done.

The argument that there has been a substantial public policy benefit from having access through cost recovery arrangements to additional funding outside appropriation funding is predicated on ABARE's maintenance of a focus on public policy and what we regard as public goods work in the commodity forecasting area. There have been some changes in the orientation of that work and some of those changes have been related to the changes in cost recovery arrangements. But most of those have been maintaining and developing closer relationships with clients who are fundamentally involved in public policy areas. So in a sense the cost recovery arrangements have allowed us, in some ways, to get a little closer to both the policy process and to some areas of importance to particular industries, through the research and development corporations. A couple of the effects of those changes have been that ABARE has been able to influence the questions asked in many cases, as well as having an influence and having a more direct conduit for the results of our research

into a policy process. So it has worked fairly positively that way.

But if you had time to work back through some of the previous work that we did back in the mid-90s, you will observe that there are a couple of qualifications to that. Coming through the research and development corporations in some sense puts another player, another middle layer, between us and the industry participants. So we've still had to maintain the full breadth of our industry contacts and contacts with other governments and other government departments and not depend directly on client relationships to be able to maintain an effective view of where policy should be going, where our research should be going and to ensure that we're effective in getting our message across.

The only other couple of points that I'd like to emphasise are on the effect of cost recovery arrangements on the efficiency of ABARE's operations. That's had a major effect. There are obviously some costs involved in seeking extra funding and in servicing clients, but on the other side there has been a substantial change in the way we manage our operations, and in the culture of the organisation. To deal effectively with a number of external clients we have to have systems where we have effective project planning, where we can account precisely and continuously for what we're doing for resources, for what stage of development projects are at, and for the time and other resources that we input into each and every one of the projects on our books.

The other thing of course that that has to involve is a staff culture where doing things well, doing them on time and doing them to budget is viewed as being a very important part of what people do. I don't think that we would have been able to make those changes and to develop to this state of effectiveness that we've got to now had we not had something like a large chunk of cost recovery research driving that process. That's been vital to the changes that we've made. Of course, this applies across the board, to everything that ABARE does. We do it in a whole ABARE system. There have been some direct benefits to the appropriation fund as a result of that.

Just one final point: the changes that have occurred in public service financing, the changes particularly in AFFA's move to outsource some of its services, the move to accrual accounting and the change in AFFA's arrangements, where it now structures its program on the basis of its outputs as denominated in the portfolio budget statements, means that we have a lot more confidence, that when we come up with an ABARE costing of a project that we really are measuring what it costs, that it's a market-relevant cost because at least some components of that cost are supplied through a market - and others have been market tested - and that it actually is something that you can be reasonably confident in saying, "This is the cost of that particular activity." It's not a rough shot at it. It's a reasonable measure of what the cost of carrying out that activity is.

I think that gives us a fair bit more confidence that we are now relevant. We've always believed that we were market relevant and that we were careful in how we did

our costing, but in the last couple of years it's much tighter. That's really the external effect of changes in the public service mode of operation than changes within AFFA. That really about sums it up from my point of view.

**MRS OWENS:** I think you've actually put a very convincing case about a number of the benefits of moving to a cost recovery arrangement. I think what I'd like to explore are potential costs because I think we need to be clear about what those costs might be. We often hear, when you have a particular target that you need to meet - and I think you have a 40 per cent cost recovery target. I'd better just clarify that first. Is that strictly correct?

**MR ROSE:** Well, it's not.

**MRS OWENS:** On page 11 you refer to 40 per cent.

**MR ROSE:** The last time that we had a target it was 40 per cent.

**MRS OWENS:** But you don't have that target.

**MR ROSE:** But effectively we don't have a target. We cost recover whatever we can. If we don't cost recover more than 40 per cent then we face a shrinking bureau.

**MRS OWENS:** This 40 per cent was referring back to the 1996-97 budget.

**MR ROSE:** That was before the restructuring of departments and the creation of AFFA and therefore before the minerals and energy component of what was DPIE moved to DISR. This financial year our cost recovery is pretty much spot-on 49 per cent of the total budget.

**MRS OWENS:** That was expected, though, in some way internally.

**MR ROSE:** Yes.

**MRS OWENS:** Internally you said, "Let's go and try and get to nearly half - fifty-fifty."

**MR ROSE:** It was a mix, actually, of we had not made the 40 per cent that we had before but with the change in departments we maintained funding for ABARE to the minerals and energy work that we had been doing before for ISR, so we have a service agreement with them. That's 20 per cent of our total funds, so around about 30 per cent is from all other sources.

**MRS OWENS:** I suppose then I'll come at this in a different way. If you don't have the defined, externally set, imposed target you still internally expect to get a fairly sizeable chunk of your revenue from sources outside the organisation. Let's put it that way.

**MR ROSE:** Yes.

**MRS OWENS:** So there is this expectation, and I think that raises the issue of the impact they may have on your core business, which may be your appropriation-funded activities in what might be defined as your public good research, not the public policy research that other departments want to see done, but what you may see as your bread-and-butter research of the things you think you need to be doing; and whether there has been any negative impact on that work. You refer, I think on page 22, to - because you're trying recoup your costs outside that you're diverting some of the research effort and it may be at the expense - well, you talk about towards the essentially private goods at the expense of policy research, and also you're finding it more difficult to maintain a long-term view in some of the work that you're doing. I'm just wondering if those possibly negative impacts - how significant, how important those are.

**MR ROSE:** It's very difficult to make that judgment because I guess we get smarter about how to do research and how to convince other people, including the people who work through the AFFA output coordination process which provides half of our funding currently, to try to work out joint funding ways of doing work which we view as being an essential part of our core role, and to attempt to spin as much off any one piece of work as we possibly can. So effectively we try to solve the long-term problem by making sure that if somebody asks us to do some work that involves, say, a reasonably complex piece of mathematical modelling - to do it properly. Then we cost it on the basis of full development costs and say, "If you want it" - because we don't know that we'll be able to use this again - "if you're not funding it again then you're going to have to pay to construct the basic model".

We can't, as we may have been inclined to do in the very early stages of the cost recovery process, presume that those things were going to be developed on appropriation funding. I'm not sure that we always get it right. In fact, I suspect that realistically sometimes we get it wrong. Sometimes research fails or it's a rather desperate scramble for us to extract something positive from what we thought was going to be a good piece of research.

**MRS OWENS:** We can have those sorts of problems too at the commission, I have to say, and you sometimes don't - I mean, problems with research often means you don't really know where it's going to lead until you actually get to the middle of it.

**MR ROSE:** I guess the other side of avoiding damage to our core AFFA functions is to look very hard at the detail of what we're doing on each one of those issues, to make sure that we're not carrying any baggage; that we're not asking AFFA to fund any things, however small, that are not absolutely essential to delivering good policy work. So we've been pretty ruthless in chopping off things that we have looked at and thought, "They're not having all that much impact," or you can reasonably argue that if somebody wants these things they can pay for them and, on occasion, people have come to us and said, "Why did you stop doing this? We want it and we're willing to pay for it." But I think there have been many cases of small things which

were probably making a contribution but we doubt if they were making a contribution as great as their cost.

So it's a leaner and cleaner research program that we offer for appropriation funding. That's another way of trying to handle it. I guess it comes back to what I said about the research planning and management process. The whole cost recovery change and budgetary change has forced us to look really carefully at the detail of what we're doing and to design things well at the beginning.

**DR STEWARDSON:** You started off your comments on this topic in your introductory statements by saying words to the effect that given that there was a reduction in your appropriation income, then your cost recovery had done a lot of good things for you.

**MR ROSE:** Yes.

**DR STEWARDSON:** I would have thought that qualification was such an important one that it almost made the statement - whatever the word is. It was something one couldn't possibly argue with because, obviously, if you were going to have your appropriation cut, you were going to have your activities cut unless you got money from somewhere else. But you then went on and talked about the issue more as if you weren't making that initial qualification; more as if you were making an assessment of had cost recovery, on balance, been good or bad for ABARE, and you talked about the advantages: being forced to be more efficient and being forced to contact more directly players in the field involved in policy issues and getting to know more about what they were thinking, and that this was helping your policy work. Those were the two issues in particular I think you mentioned. There might have been some others.

The potential downside is the one the previous question to you was just about; that you were forced away from important considerations. Now, am I right that your answer to that is that you really don't feel that you have been forced to abandon things that are really important to you in the public area that are financed by appropriation? Is that what you're saying?

**MR ROSE:** That's a tough one to judge. We are smaller; we have a smaller research program, even with the ability to fund through cost recovery. We are therefore not able to do as much research and we have more difficulty, as pointed out in the submission, in maintaining a long-term view - in maintaining some of the analytical capacity that we would have had. It's very difficult to make the judgment of the things that have dropped off. Were some of those really important? Would they have passed the benefit cost test in a public policy sense?

**MRS OWENS:** Would they have dropped off anyway?

**MR ROSE:** Some of them would have dropped off anyway. Some of the reorientation in our work program reflects the fact that issues have changed. The



world has changed and what's important for an economic research agency is in some ways different to what it was before. But, on the other hand, there are some things that we could have done that may have been useful.

**MRS OWENS:** It's interesting that you say that you have a benefit cost test related to public policy, because that's really defining the research you're doing as being a very applied research. I presume you don't get down to the basic end of the spectrum and do some basic research which may not have a public policy impact, or it may.

**MR ROSE:** No, we don't. We don't do anything like that any more.

**MRS OWENS:** Any more. Is that a function of cost recovery or evolution?

**MR ROSE:** It's certainly a function of the combination of cost recovery and budget cuts. You have to go back quite a long time in ABS history to a point where there were some rather esoteric and theoretical or hypothetical activities on its work program.

**MRS OWENS:** Presumably sometimes researcher driven.

**MR ROSE:** If you go back far enough you can find them. We certainly don't have time to even think about doing things like that any more. We have some difficulty at times in thinking about doing things which are new and inventive that we hope will be important in terms of delivery, either in a conceptual sense or in a practical sense, through development of formal models, for example. Nonetheless, we still do some of that.

**DR STEWARDSON:** You've put a lot of emphasis on the improved efficiency that you've got, which is obviously a good thing, but from our point of view and trying to apply your experience across other agencies, I guess the efficiency has come not just from cost recovery per se but from cost recovery by an organisation that is producing things that are competitive with other organisations in the private sector.

**MR ROSE:** Yes.

**DR STEWARDSON:** Therefore your experience is not necessarily transferable to other agencies that aren't in contestable markets.

**MR ROSE:** I think that's true. It is certainly the combination that has delivered that, because the bottom line is that none of our clients would have been clients the next time around if we hadn't been able to deliver efficiently and in a timely manner, because they've all got other options.

**DR STEWARDSON:** Yes.

**MRS OWENS:** If there are other options that's implying there's some degree of contestability in the market, which raises the important question as to why ABARE

should be in there competing with other external researchers that may be able to do the job.

**MR ROSE:** Why do we have an ABARE - - -

**MRS OWENS:** Yes.

**MR ROSE:** - - - and why don't we outsource the whole lot? We have attempted to answer that. I'm not absolutely sure that we've got the answer right. I think we attempted to answer that in response to the commission's draft report on R and D several years ago.

**MRS OWENS:** I was involved in that inquiry, too. It's a long time ago.

**MR ROSE:** Some things have changed since then in the sense that a lot of what we do now faces a contestable market, possibly as a result of the commission's recommendations, among other things. It's a question of whether there are things that a government organisation can do initially for the government itself, so whether there are things that we can do for the ministers, for AFFA and through them to the broader constituency as part of the departmental responsibility. And there are several areas in which we believe that we probably can deliver more efficiently and more effectively than an outsourced basis.

**DR STEWARDSON:** What areas do you have in mind?

**MR ROSE:** It's probably more difficult to source a broad combination of policy advice from a purely private sector organisation or a selection of private sector organisations, particularly when you're tying in with industry, as we do through the farm surveys and through other industry contacts, when there are questions of confidentiality at the departmental and ministerial level. There are questions of confidentiality in terms of access to, for example, farm surveys material, and there are a large number of related analytical issues associated with that bundle of activities. It certainly would be possible to arrange that purely privately but I think it would require a vastly different arrangement of government department and its relationships with industry. So in a sense while government and while AFFA is constructed as it is we can provide a variety of policy support services quite effectively.

**MRS OWENS:** I think I'll remember that answer the next time somebody asks us about the Productivity Commission, because there's a very similar set of issues there and that was a very good answer.

**MR ROSE:** They are very closely related in what we do - - -

**MRS OWENS:** Yes. So I was just being a devil's advocate.

**MR ROSE:** - - - and what the commission does.

**MRS OWENS:** Yes. No, it's a very similar situation.

**MR ROSE:** I can't quantify any of that.

**MRS OWENS:** People do say about us, "Well, there are consultants out there that can do the work."

**DR STEWARDSON:** Can I just ask something that follows on I think from what you were saying. I mean, in effect I think what you were saying then was that quite a lot of what ABARE does in some way has both a public good and a private good characteristic, or it's a mixed good. I think I interpreted what you were saying as saying that.

**MR ROSE:** I think that's reasonable.

**DR STEWARDSON:** Okay. You do say I think on page 33 that where you're offering a service that offers both public and private benefits only a proportion of the total cost should be retrieved from the private users, and discarding a hat that I once wore in a previous life, I should say, why would your policy be to proportion it? If the private benefits are sufficient to cover the whole costs of that particular project why not charge it that way?

**MR ROSE:** I guess there are instances in which we could take that approach, and it's consistent with an economic theory approach to say, "Okay, you can pay for it so you will." My suspicion is that the circumstances under which you could do that and you could do it in a contestable market without a competitor offering a lower price would be small. But there's certainly nothing in economics or in a public policy sense which suggests that it would be wrong for us to do that.

**MRS OWENS:** Yes. If there wasn't a contestable market you could, but then it probably isn't a private good.

**MR ROSE:** Yes.

**MRS OWENS:** I'm still thinking that one through. Can you have private goods when there's no contestable market? We'll take that one on notice.

**MR ROSE:** It's a monopoly.

**MRS OWENS:** Yes.

**DR STEWARDSON:** I think so, yes.

**MR ROSE:** I think so. I suspect there are instances where it is possible.

**MRS OWENS:** This is going to be terrible on the transcript, this bit. Yes. Well, in

that case then I suppose the question arises, if there's no contestable market there to worry about whether you could just vote all the charges, the costs on to the private client.

**MR ROSE:** We could do that. I can't think of an instance where it was so clear-cut that we knew that it was safe from a contestability point of view to take that approach. So I guess the question really hasn't seriously come up. But if we believed that the funds were available and we thought we could apply a small profit to doing some other public policy research or to covering some of our development work we would do that.

**MRS OWENS:** That's acting like a true monopoly then. Charge what the user is prepared to pay.

**MR ROSE:** The other difficulty of course is that when your business is producing public policy advice behaving like a monopolist or taking advantage of some small monopoly position doesn't look all that good. But, as I said, I can't think of an instance where we believed that we had that opportunity.

**DR STEWARDSON:** The more I think about ABARE in terms of this inquiry the more I'm inclined to think that you're quite different from most of the other organisations that we have to look at because so much of your work is contestable and yet, as you said, has a public policy component, and you've managed I think to juggle the nature of the things you do such that you've kept that somewhat odd combination of things. And so you've had the contestability to force you to be efficient and you are really cost recovering in a technical sense but you are sort of almost being partly a business.

I suppose we ought to just look at one of the down sides of this mixture that you have of public and private policy stuff, public and private goods stuff which you yourself mentioned, and that is in terms of your perception that your advice is captured by some of the non-government people who are your customers, or even by some of the government department people that are your customers.

**MR ROSE:** Yes.

**DR STEWARDSON:** Having been in a previous existence one of your customers where that particular charge was raised I know that on that instance you weren't in the least captured by your customers, but it clearly is a perception.

**MR ROSE:** Yes.

**DR STEWARDSON:** Do you want to say something about that?

**MR ROSE:** Obviously we cannot afford to be captured because that would compromise our ability to maintain the confidence of either our private clients or industry clients or of our government clients in AFFA and in the minister's office. If

ABARE research isn't good research and it isn't clean in terms of being free of political or industry influence then very quickly some or all of those groups are going to back away from us. We're not going to be effective in our public policy role because our research is not going to be believable, and we're not going to be able to continue to fund our activities. So we have to be very careful and we have to try to ensure that our activities are transparent enough so that the appearance of objectivity is as obvious as the reality of it. But being continuously conscious of how important that objectivity is to our survival and to our ability to have any public policy impact is enough to keep us on our toes. We'd very quickly meet our demise if our research was seriously compromised. I don't think there's more that I can say on that.

**MRS OWENS:** You say in your submission that cost recovery enables you to have a greater degree of flexibility in terms of what you're doing, but at the same time isn't there the potential to undermine the stability of the funding arrangements if you're not quite sure what revenue you're going to get in a particular year? Does that cause you problems internally?

**MR ROSE:** It does cause problems. It means that we have to spend quite a bit of time reviewing just where we are through the year in terms of our staffing levels, the cost of our operation and forthcoming revenue, and the fairly precise timing of that revenue. Because much of our external funding is on a basis of fairly long-term bids for funding, we have to look out quite a long way into the future. There's a fair degree of uncertainty about what of the things that we've applied for funding for will actually come up, so it means continuous reviews of our funding circumstances and continuous reviews of how we're using staff resources and other resources.

**MRS OWENS:** Do you mainly have permanent staff?

**MR ROSE:** Yes, mainly permanent staff but we have some non-permanent staff. We don't use temporary arrangements to a great extent on research staff but we do to some extent. We have people on short-term contracts, we outsource some work, so we have economists, mathematicians and modellers who sometimes work for us on a purely commission basis and work for us for a short term. That does give us a little bit more flexibility but that's fairly small. It's a reasonably tight market and it's not very easy to come up with people who have the skills that we're looking for in terms of research delivery and who are willing to work for just a couple of months and available to work just for a couple of months that fit in with our timing. We use temporary arrangements to cover off on most of our survey collection, so we don't have a large group of permanent field officers. We have a large pool of people who work for us for part of the year.

**DR STEWARDSON:** Can I go back to a small point you made I think in answer to one of the first questions. I just want to make sure I've understood it correctly. I think you said that because of the reallocation of where ABARE sat in relation to departments, that previously you had been with Resources, or Resources had been with you, and when DIST went off, some of the things that you had previously done

for your own department in Resources were now being done for another department, so they became cost recovery whereas previously they'd been within the department.

**MR ROSE:** That's right.

**DR STEWARDSON:** So a whole 20 per cent was entirely a matter of where in a relatively arbitrary way you sat in the organisation. Is that correct?

**MR ROSE:** Yes, that's right, but the arrangement is that we have a three-year agreement with DISR, which is negotiated or renegotiated on an annual basis, so we're in year 2 of a service level agreement with them.

**DR STEWARDSON:** I was really just thinking of it as an example of how, in a sense, a specific target that an organisation should recover X per cent of its costs depends entirely on where it happens to sit or be moved to sit.

**MR ROSE:** Sure. In effect, what we're doing, viewed from the previous departmental structure, is cost recovering about 30 per cent, but in the reality of where we sit today and the freedom that DISR has to do what it likes about contracting us or anybody else to provide it with economic services, we're 50 per cent cost recovering. We will only hold that 20 per cent or some significant proportion of it if we deliver something which is as good as they think they can get for the money.

**DR STEWARDSON:** Do you have a rough figure for what it actually costs you to cost recover?

**MR ROSE:** I don't. I did start out asking some questions about that, and one of the things that we can identify is how much time people believe that they spend on project development, but that's all project development so it doesn't just cover cost recovered project development. So that wasn't a useful process and I suspect that there are a lot of other things involved in servicing our cost recovery clients as well which are just in the day-to-day business of carrying out the research, so I can't give you a reasonable estimate of that.

**MRS OWENS:** Presumably the benefits from the cost recovery arrangements will outweigh those costs, albeit you don't know what those costs are.

**MR ROSE:** My suspicion is that they do considerably outweigh those costs.

**MRS OWENS:** You laid out all the benefits earlier.

**MR ROSE:** Because they apply across the whole research program and they're quite substantial.

**DR STEWARDSON:** 49 per cent would be terrible if your administrative costs were 49 per cent of your operation.

**MR ROSE:** No, sorry, I meant in terms of the efficiency gains that we've got.

**DR STEWARDSON:** I see.

**MR ROSE:** They will almost certainly outweigh the other costs. Costs of developing funding proposals and of going through the negotiation process can vary enormously, even for a project which has about the same amount of funds, depending on the nature of the project and on the nature of the relationship with the particular client. Some of those things may be very straightforward. It may simply be that ABARE is asked if we would like to make a bid for a particular piece of work that's reasonably defined when we're approached and it's a straightforward process to put something together. At other times it may take up many days' work for several people and may involve a series of client-ABARE meetings, which can become quite expensive.

**DR STEWARDSON:** You have been, I think, with ABARE for quite a long time. Again, asking the question to help us with other organisations, do you think that there were other ways that the improvement in efficiency that you've talked about could have been achieved?

**MR ROSE:** I imagine that there are ways that it could have been done but I doubt that the motivation would ever have been there without the kind of combined cost recovery contestability conditions. It's a very different way of operating to operations in the normal public service environment, and ABARE staff still include a lot of people like me who came into a very differently structured public service environment and had none of any of this almost commercial orientation and little, if anything, of the idea of client service. Without some driving force to do that it would have been fairly difficult.

You could find managers who may have had other techniques but to change the culture was essential, and changing the culture is fairly difficult if there isn't some external force, if there isn't something out there that you can point to and say, "That's what we have to face." Those are the conditions in the world that we live in and we can either adapt and survive and make ourselves useful or we can fail to adapt and we won't survive.

**MRS OWENS:** I presume you wouldn't want to go back to the old system.

**MR ROSE:** I don't think we would, no.

**MRS OWENS:** Can I just ask another question about the internal arrangements between you and the department. You no longer have your own section 31 account.

**MR ROSE:** No.

**MRS OWENS:** So the money - it all goes into the departmental account, it goes to Finance, it comes back. Do you then have to put a case internally to get some of that revenue back into ABARE or how does that work?

**MR ROSE:** It comes straight back to ABARE. Where we have to negotiate with other people in the department is about what work we do and how it's funded from appropriation funds, and we do that through the series of output action teams.

**MRS OWENS:** How do you decide what you think needs to be funded from appropriation? This is your core services really. How do you decide that?

**MR ROSE:** It's a question of defining what the most important policy priorities are - what policy and, in ABARE's case, outlook and commodity forecasting as well. We do it through an in-ABARE process of assessment of the priorities and through a process of then talking through priorities and formally setting our project proposals within AFFA's output action teams. So there are really a couple of levels of that. One is what we do in ABARE as an ABARE executive in deciding what we believe are research priorities, and then we feed those into the AFFA output process and we negotiate through those output teams.

**MRS OWENS:** Is there some degree of complementarity then back to the other work you're doing for clients?

**MR ROSE:** As much as we can manage, there is. That's one of the paramount things when we're looking for additional or alternative funding, yes. The question is how important is this in policy or industry terms and how does it fit with the other work that we're doing. Does it complement something that we're doing within AFFA? So it means that perhaps we can spend more appropriation and funding on a related area because we've got somebody else who's willing to pay a substantial chunk to get this work done. Does it complement what we're doing in the sense that we can use some of the material that we develop from this, or we can use some of the model developments for both pieces of work or for future pieces of work. So that's always something that we have on our mind.

**MRS OWENS:** Yes.

**MR ROSE:** Is this something that's an individual activity, that's separate, or is it something that we can spin things off?

**MRS OWENS:** Is it possible that you'd ever knock back research because it doesn't fit into your general work program?

**MR ROSE:** Yes.

**MRS OWENS:** Even though there may have been money attached you may knock some things back.

**MR ROSE:** Yes. Quite simply there are things that look like good funding opportunities and there are good funding opportunities that don't conflict with our public policy role, but when we look at them we think that they're going to use in



some cases just critical resources. Sometimes we just have particular people who are the only ones that have the skills to deliver that one who are important to some of our core research.

**MRS OWENS:** And you wouldn't switch those people over?

**MR ROSE:** No.

**MRS OWENS:** This comes back to what I was asking much earlier, that really you try to avoid jeopardising that core research.

**MR ROSE:** Yes - not unless we can cover off some other way, unless we're convinced that we can recruit somebody else, for example, to fill one of those positions. We're careful not to do it if it's going to compromise the other work that we're doing.

**MRS OWENS:** This may not happen, but what would happen if somebody came to you and asked you to do some work but they wanted to retain the intellectual property? Do you ever enter into those arrangements?

**MR ROSE:** I can't think of an instance where we have. We approach this one with some trepidation sometimes with the research and development corporations who, as you probably know, are strongly oriented to trying to tie intellectual property rights while they can. The nature of most of the work that we do is such that it's really something that is intended for a public arena in any case, so it doesn't become a serious question very often. But in essence as far as we have gone is to share intellectual property rights.

**DR STEWARDSON:** Can I just try to make clearer one last matter? Your 49 per cent cost recovery - you've mentioned in this discussion today that about 20 percentage points of that 49 is the DIST contract, and I was just trying to find in here - because you've either said or else you've implied that a substantial amount of the other 29 per cent is to other government departments. At least that was the impression I have. Is that correct? So my question is do you have a rough figure that you could give us of how much of the 49 per cent altogether is charges to other government or to government departments as distinct from non-government bodies?

**MR ROSE:** I would rather get back to you with a precise figure than a guess so I'll do that.

**DR STEWARDSON:** Thanks.

**MRS OWENS:** Other government departments, R and D corporations and other clients.

**MR ROSE:** Yes.

**MRS OWENS:** There's probably a sort of a - - -

**MR ROSE:** In that 30 per cent R and D corporations would be the largest component and other government departments would be the next one.

**MRS OWENS:** And then you'd have private as well.

**MR ROSE:** Yes, and some of that is conference fees and returns from publications.

**DR STEWARDSON:** If you could give us a rough figure it would be useful.

**MR ROSE:** Yes.

**DR STEWARDSON:** The reason I'm asking, I'm still trying to sort of understand ABARE and place it in context, and in a sense these charges to other government departments are a different category from charging non-bits of government.

**MR ROSE:** Yes.

**DR STEWARDSON:** That's why I'm asking.

**MR ROSE:** Yes, sure.

**MRS OWENS:** Yes. I think we've actually gone a little bit over time, so I'm sorry about that. Would you like to make any other comments, Roger, before we close for lunch?

**MR ROSE:** No, I think that's all from me.

**MRS OWENS:** Good. Thank you very much. I think that was very helpful, and if we could get that breakdown I think that would be useful, too.

**MR ROSE:** Yes.

**MRS OWENS:** So we'll now break for lunch and we'll resume at 1.30.

(Luncheon adjournment)

**MRS OWENS:** The next participant this afternoon is the Department of Immigration and Multicultural Affairs. Welcome to the hearings this afternoon. Could you each please give your name and position with the department for the transcript.

**MR RIZVI:** Abul Rizvi, first assistant secretary, migration and temporary entry division.

**MR McMAHON:** Vincent McMahon, first assistant secretary, corporate governments division.

**MR DAVIS:** Steve Davis, chief financial officer and assistant secretary, resource management branch.

**MRS OWENS:** Good. Thank you, and thank you very much for the submission, which we've read. But I understand that - who is going to lead us through? Vince, is that going to be you?

**MR McMAHON:** Yes.

**MRS OWENS:** Thank you.

**MR McMAHON:** Yes, thank you very much for inviting us here. I thought I might just make just a couple of brief comments by way of introduction to the submission. User charging started in a serious way in the department in the late 1980s and I just wanted to reflect that the impetus came from a number of directions. One of them was government policy at the time and we turned our mind to it. There was need to ration government services, we were seeking to achieve some particular policy outcomes and we needed offsets to finance other government initiatives. And I think the best illustration which brought together a number of those elements was in the late 1980s we had a significant problem with the review of applications and the main reason the review was being sought was to further people's stay within Australia and the growth in that area was quite dramatic. And we were able to achieve a number of outcomes at the same time by imposing user charges which did dramatically reduce the rate of increase and essentially both raised revenue and rationed services.

The department at that time was characterised by a lack of charging for most activities and very low levels of charges relative to the cost of delivering the services. This is now unlike the department from where we find ourselves in now, which has a wide range of charging, including in areas such as AMEP where it's primarily an educational function, and our level of charges in general tend to be close to the cost of providing the services. It's also now apparent that the scope for increasing and introducing further charges is now much more limited without the charges being seen as operating as taxes.

As you will see from the submission over 90 per cent of our revenue is raised

under the Migration (Visa Application) Charge Act 1997. This is taxing legislation, although we regard it as being more in the nature of charges than taxes. The government introduced this legislation because of continuing concerns that the courts may regard some of our charges as taxes, making the processes themselves invalid. This reflected the narrow views of the court as to what could be regarded as appropriate to include in such charges and the capacity for changes in volumes of applications to result in under and overcharging.

We have been particularly conscious of this issue since a decision in 1988 by the High Court on the passenger arrival charge. There was a charge which was levied under the charging authority of the Migration Act and one of the two main reasons it was regarded as a tax was that the level of charging was not seen to be close enough to the level of the cost incurred for the individuals on which the charge was being imposed. As you will see from the submission the revenue arising from the visa application charge does not flow back to the department. The department is primarily funded through a purchasing agreement, which does mean that changes in application rates result in similar changes to revenue raised for consolidated revenue. However, we have nevertheless sought to provide some background information on the visa charging regime. Thank you.

**MRS OWENS:** Good. Thank you, and thanks for those few words. I think that there are a few interesting issues that we'd like to just tease out with you. I should have asked whether either of your colleagues want to make any comments before we start. No? One of them relates to this issue of visa charges and the extent to which they're user charges versus general taxation revenue, because they come in under a particular act. What we've been doing, as we've been thinking about these issues, is these sorts of charges we have taken an interest in because even though they may not return to you directly, there are quite a number of other instances where there are similar sorts of arrangements, but we have I think defined those sorts of charges as being within the scope of our inquiry and we are looking at them. I think somewhere you make a distinction between user charges and cost recovery.

**MR McMAHON:** We do, yes.

**MRS OWENS:** And we probably are making less of a distinction. User charges, you are arguing, is any charge imposed on a user, whereas cost recovery is for a particular service. Is that what the distinction is?

**MR McMAHON:** Yes, it's the reuse of the revenue which we're focusing on in the cost recovery aspect, as opposed to the charge on a user. That's right.

**MRS OWENS:** But there can be charges on users where the charges just go into consolidated revenue.

**MR McMAHON:** Yes. That was the first leg of the argument. The second leg of the argument did revolve around the separation of access to that revenue and the fact that the courts themselves pushed us some distance away from being able to treat it in

a cost recovery sense. If you took our position now, it's probably quite reasonable for us to put an argument to the Department of Finance that we should be able to reuse that revenue, but we are effectively prevented from doing so because of the taxation nature of that revenue.

**DR STEWARDSON:** Sorry, I'm a little bit lost. I understand the difference between charging a fee that approximates to the cost of the service and taxation, but I thought all the money you get in, to use a general term, went into consolidated revenue and you've got appropriations for your activities. I don't follow what you were saying about reusing and not reusing and how that relates to user charge versus cost recovery.

**MR McMAHON:** We have a capacity to basically - section 31 under the Financial Management Act - to actually directly access money that we raise. It used to be called an annotated appropriation, but effectively it allows direct reuse of your funds.

**MR DAVIS:** And in terms of the department's activity we do have a degree of revenue in that area. It's not in the order of magnitude of the visa fees, but we do - for our translating and interpreting service which is our largest area of cost recovery in that sense - under section 31 levy a fee and it is retained within our bank accounts and reused by us. It is in the order of 8 to 10 million dollars or thereabouts, whereas the visa fees themselves are of the order of 200 million plus in terms of order of magnitude. Whilst we do have section 31 revenue, which is retained in our departmental bank accounts and reused by us, the visa fees overwhelmingly go back to the consolidated revenue fund of the budget and then we are appropriated to undertake the visa processing activities and so forth.

**DR STEWARDSON:** So the user charge is what you're calling your interpreting service. Is that correct?

**MR DAVIS:** We would call those cost recovery. Essentially we are recovering a cost of providing and translating, interpreting, document translation services. That clearly is cost recovery and contributing to the cost of those services. For the visa fees we're saying those are more in the nature of user charges, because a person who requires a visa has to pay a charge, but that money flows to consolidated revenue and is not immediately available to us, except through the appropriation process in terms of offsetting the budget impact of appropriations.

**DR STEWARDSON:** Are you also making the distinction that it's something different from cost recovery because you say in para 12 that the visa charge is not derived from the cost of processing the application, and then in para 14 you say that DIMA must be aware of the impact on Australia's competitive position. So it sounds as though you're saying that the visa charge is not derived from the cost of what you do and that it is sort of what the market can bear. Is that what you're saying there?

**MR McMAHON:** No, that's not strictly what we're saying. In some cases we have actually set the fees to ensure that they are internationally competitive. I think a broad

argument is just the degree of separation and responsiveness to the charge and the provision of the service. I mean, not only is it a tax legislation, but the cost for us could change fairly significantly and we would have to go through a process in government to try to get those charges amended, and for the charges to be amended under that legislation. So I think it goes to the ability to reuse and the direct link with that reuse of the money and our own responsiveness in respect of changes in the costing structure, vis-a-vis the charges themselves.

**MRS OWENS:** Effectively a visa charge is there just simply to raise revenue.

**MR McMAHON:** No, if you go back in time we were certainly conscious, and there were pressures within government that, you know, there should be - there was a whole rationale around charging and we wouldn't move away from that rationale. They're some of the issues that I raised earlier about rationing services. It's really quite interesting if you take an example of the last major fee that we introduced, and what drove the decisions in relation to that fee. It was the non-ETA visitor fee. We were having troubles overseas in servicing the high cost, potentially high volume - reasonably high volume in the longer term - markets in a number of countries which are high risk. There was quite a bit of demand from industry for us, for example, to be more responsive in respect of movements from those countries and in particular it would be the People's Republic of China and the Indian subcontinent.

We put a proposal, we canvassed the possibility of introducing a charge which would then increase our capacity to be able to deliver services in those countries. That's what happened. We introduced a \$50 fee and that helped us finance a reasonably significant increase in the number of staff we had in those countries, but at the same addressed a policy issue that we needed to address, and that is the repeat applications for application which are for nothing. We had a situation before where people would just simply keep submitting an application for a visit visa and certainly the anecdotal evidence suggests that since we've introduced the \$50 fee that quite unnecessary work that had been there in the offices overseas before has now gone. Sitting behind all that is the simple proposition that the cost of providing services in these high-risk countries is significantly higher than anywhere else. So we're able to deal with a battery of issues with the one charge.

**MRS OWENS:** It sounds reasonable. Coming back to your opening comments, you mentioned that when the user charges were initially introduced in the late 80s that it was a result of government policy. Was that government policy actually written down somewhere, or was it set into legislation?

**MR McMAHON:** No, it would have been basically guidance within government, so you really have to go back to the finance circulars and all the rest, but basically it was the first really conscious decision, I think, within governments that came in the mid-1980s about a need to more comprehensively address the way that you provided the services and whether or not it was reasonable for users to pay. It really had its origins in some of the discussion on the budget, where there was a view about whether or not the costs for these services should be spread to all people, or directed

more at those who were actually using the services. There was that line of argument, but at the same time in the 80s, we were looking to do a lot more overseas. The whole world had changed on us basically and although this revenue is not directly related in a cost recovery sense it nevertheless provided a basis for expanding our services within government by pointing towards the revenue offsets that existed in a number of areas.

**MRS OWENS:** So you were able to put a case to the - I don't know what the Department of Finance and Administration was called at that time - - -

**MR McMAHON:** Department of Finance.

**MRS OWENS:** Department of Finance at that time - were you able to put a position that you were collecting this revenue through these charges so that gave you a reasonably good, strong position to argue for a larger budget to expand services?

**MR McMAHON:** That's right. Sometimes the services that we were expanding might have been greater integrity or just more people on the ground to process applications, like looking for an effective mechanism to deal with growing backlogs overseas.

**DR STEWARDSON:** I understand what you said about the extra \$50 for the countries where you had to have some more intensive investigation, but what is the basis of the amount of the basic set of visa charges if it's not the cost of processing it? How do you determine the amount?

**MR McMAHON:** It has over time broadly been the cost of the processing. That's one of the reasons I made those opening comments, that in many respects we have done a lot of user charging during the late 80s and the 90s. As we moved off the system on to a taxation regime it really was moving off a system that did more consciously try to relate the cost of the services to the charges that we were making. I think if you broadly looked at our charging now you would say that it either recovers or almost recovers the cost.

**MRS OWENS:** You've given us some charges, a list of charges as at September 2000 in attachment B1. You've got temporary visa and permanent visa charges and so on. Are they related in any direct sense to the actual costs of actually administering those different activities? Is there some underlying rationale to those different charges?

**MR RIZVI:** I think at the core of it that's correct, but I think it also needs to take into account that some of those charges reflect not only the costs of actually receipting the application, registering it, considering it, undertaking interviews, undertaking health and character checking and then finally granting of the visa. That is what most people would regard as visa processing. But some of the charges also take into account downstream costs that are incurred, associated with the granting of visas. For example, there may be costs associated with the entry of people which

relate to the follow-up compliance activities that might need to be undertaken to ensure enforcement takes place. Some of the charges also incorporate an element of the costs of that type.

**MRS OWENS:** So you've got like charges for a business sponsor status for temporary visas, 3105. That would be a fairly high cost activity, would it? That's quite a large charge. Or is it somehow, because there's a business sponsor, there is an expectation that there will be some higher ability to pay?

**MR RIZVI:** Not necessarily a higher ability to pay, but that particular sponsorship requirement or sponsorship process relates to a large company - generally a large company in Australia that is seeking to have the right to bring in an unlimited number of people on a long-term temporary basis - that is repeat applications, repeat entry of a large volume of people. That requires us to examine a range of attributes associated with the business employer and we do that often in consultation with the Department of Employment, Workplace Relations and Small Business.

It relates to an assortment of issues including, for example, examining the training performance of that particular employer to ensure that the employer is not using overseas entry as a means of undermining or denying opportunities for Australians. Those sorts of issues need to be taken into account, which can be quite complex and quite time-consuming. Given what the sponsor is essentially getting for that - that is, an unlimited right to sponsor over a period of time - and the degree of work that goes into that assessment, we feel that that is an appropriate charge.

**MRS OWENS:** When you're setting these charges do you look at what equivalent countries charge for similar visas? The spouse partner visa application lodged in Australia is \$1595 and, as I understand it, the British spouse visa is about the equivalent of \$A640, so ours is quite a lot higher.

**MR RIZVI:** It is.

**MRS OWENS:** Do we do more work or is there something else going on there?

**MR RIZVI:** Yes, you've put your finger on it, and I'll just explain some of the differences between our processing arrangements in respect of partners and the British approach in respect of partners. We do undertake much more intensive checks. In the vast majority of cases we undertake interviews of the applicant and the partner. The background checks we would undertake are quite extensive. In addition, Australia's partner application processing regime is a two-step process whereby the person is given what is known as a provisional visa initially, and then after two years that is then confirmed into a permanent visa if the relationship remains ongoing. So essentially what they have paid for is a two-step process, not just a single-step process, and those aspects are not a part of the regime in the United Kingdom, although I understand they are looking at making similar changes.

**MRS OWENS:** So our price is really reflecting policy decisions here to have a



particular process in place which may be a more stringent process. It's not a process that's developed over time because it's a way of getting - this is probably a cheeky question, but a way of getting more money.

**MR RIZVI:** No. Over the years governments have consistently - and certainly this government has made very clear to us that it expects a very high degree of integrity in the processing of people who apply to enter Australia on the basis of a partner relationship.

**MR McMAHON:** I don't know whether there's a universal template that more or less sets out some of the principles there, but if you take again the example of the non-ETA visitor visa, because it's our biggest and our latest, basically the \$50 charge was our estimate of the cost of the processing. At the same time, when we did it we compared ourselves to other countries to make sure that we were within the range. Now, when I say "other countries", we generally tend to compare ourselves with other immigration importing countries basically, like Canada, New Zealand, the US, etcetera. When we looked across that range of countries the fee seemed to be quite reasonable in respect of the charges that they were making. Often we do the reasonableness check but it wouldn't in itself necessarily rule out a higher charge if there were particular policy grounds. In the same way there are some areas where we set fees in which we deliberately do not go higher for policy grounds as well. As I recall, citizenship fees involve a reasonable level of under-recovery.

**MRS OWENS:** And that's an encouragement.

**MR McMAHON:** An encouragement, an incentive for people to apply for citizenship, that's right.

**MRS OWENS:** So you use some degree of judgment in this.

**MR McMAHON:** We do.

**MRS OWENS:** I guess citizenship - there's almost a public good element or a public interest element too.

**MR McMAHON:** Yes.

**MRS OWENS:** We think that's a desirable thing for people to do, so we charge accordingly. I suppose there's a question as to whether you charge at all.

**MR DAVIS:** Indeed, but I guess an extreme example of that where we do not charge at all is visa fees for refugees. There's no application charge for people to apply for refugee status, so I think there is a balance of the policy objectives and I guess the economic arguments that come into pricing.

**MRS OWENS:** But I notice with the Refugee Review Tribunal you do have fairly hefty fees if the decision goes against them. I think that was in one of your - - -

**MR DAVIS:** Yes, that's correct.

**MRS OWENS:** I'm not quite sure how you actually go about collecting that money.

**MR DAVIS:** The Refugee Review Tribunal do not collect a lot of that money. They administer that fee. It's levied for unsuccessful refugees, so those people who are levied that fee are not refugees, they've been rejected by the tribunal. So to characterise them as refugees is firstly not accurate and, in being unsuccessful, the fee is levied for a range of reasons and a very small amount of it is actually collected.

**MR McMAHON:** The view has been taken by that time that they've had a primary decision and they've had now a second decision which has come to the same point. It is nevertheless a means of collecting some money for the country and also a means of making sure if the person seeks re-entry that the fee is paid before re-entry at any subsequent time.

**DR STEWARDSON:** Just reading that little bit I wondered why on earth you bothered. The RRT costs you 18 million, your fees theoretically are 4 million, you have a 90 per cent provision for doubtful debt, you get about half a million. Why do you bother?

**MR DAVIS:** A policy objective.

**MR McMAHON:** It is a policy objective but, essentially, if a person is found not to be a refugee, has a debt to the Commonwealth, leaves the country, then that person will not generally be readmitted without first acquitting that debt to the Commonwealth.

**DR STEWARDSON:** So it's really basically if they want to come back again that you consider - - -

**MR McMAHON:** That would be the major - - -

**DR STEWARDSON:** I see.

**MR McMAHON:** So even though we write off the debts, that does not actually mean that the person no longer has a debt to the Commonwealth.

**MR DAVIS:** That's just an accounting treatment for the debt.

**DR STEWARDSON:** Do many of them want to come back?

**MR DAVIS:** Some do.

**MR McMAHON:** Yes, sometimes, for example, it might be a spouse. They could

be married, they may have formed a relationship and they may want to come back. They may actually try to re-enter as visitors, and not only do you have the bona fides issue about whether or not they are a genuine visitor but you can then use the issue of the debt to the Commonwealth to make sure that they acquit it before they re-enter.

**DR STEWARDSON:** I see.

**MR RIZVI:** I think the preferred policy outcome, of course, would be to try to make sure that only genuine refugees actually apply and people only utilising the system to delay departure are discouraged from doing so.

**MRS OWENS:** I don't know whether you've seen some of our submissions but we've had a few submissions that have raised the question of visa fees, and we've had one from a group called English Australia who appeared before us. I think it was last week or the week before.

**DR STEWARDSON:** In Sydney I think, the week before.

**MRS OWENS:** Sydney two weeks ago - and they raised the question of student visa fees, and you've probably heard these concerns before but they argued that some of the student visa fees are higher than other countries, and I think I recall when we came to visit you some time ago the answer to that question was that they got other benefits from this visa.

**MR McMAHON:** Work rights, yes.

**MRS OWENS:** I don't know whether you want to comment further at this time. There's also something called a student information service fee of \$30 and it's not really quite clear what that's for.

**MR RIZVI:** I had detailed notes on that but I've now misplaced them.

**MRS OWENS:** We could ask something else and come back to that if you - - -

**MR RIZVI:** If that's okay.

**MRS OWENS:** Give you a bit of time.

**MR RIZVI:** I'm sure I'll find them if you give me a couple of minutes.

**MRS OWENS:** It happens to me all the time. You get so many bits of paper.

**MR RIZVI:** I've found them, actually.

**MRS OWENS:** Okay.

**MR RIZVI:** I think the first thing to be said is that the headline fee is indeed somewhat higher than those of a number of other countries. However, I think we've got to be careful in looking at just the headline fees. In many instances we're not really comparing like with like and I'll just give you some examples of instances in the student application fee where we are not necessarily comparing like with like. I think one of the first points is that, unlike the United States, Australia allows persons in the country on visitor visas, on working holidaymaker visas, on temporary business visas, for example, to undertake study on those visas. That's a flexibility that doesn't exist in most countries.

Application fees for these visas are very much lower than those for student visas and indeed, in some cases, are free of charges. For example, a person on an electronic travel authority can be in Australia, and undertake, for example, an English language course if they wished - a short English language course, given that the visa is only for three months - and they would not need to apply for a separate student visa or a student authority to do so. They could do so on the basis of their existing electronic travel authority. In other words, there is a group of people who are already entering the country and studying on visas other than student visas for which the application fees are very much lower, if not free of charge.

**DR STEWARDSON:** They are advised about that, are they?

**MR RIZVI:** Yes, that is information that is available to them and, indeed, if you look at the statistics of the number of student visas we issue and the number of people in Australia studying - overseas students studying - the latter is significantly higher than the former, which are effectively people entering Australia on other visas and studying. Indeed, that is a particular visa that advantages English Australia in particular. Australia is involved in a number of what might be regarded as higher-risk education sectors and education markets that lead to higher costs. For example, we are one of the few countries that is in the secondary school market in China. Most of our competitor countries are not in the secondary school market because they regard it as too high a risk. We're in that market.

**MRS OWENS:** When you say "higher risk" does that mean that the people will come in and then won't want to return?

**MR RIZVI:** Higher risk of either immigration noncompliance or overstay or some other concerns of that nature. We are also in a number of markets in the vocational education sector and in the English language sector where many of our competitors are not involved, or involved only to a very minor degree. Those factors lead to our costs being somewhat higher than their costs.

Australia offers, as we've already discussed, the most generous work rights to students and their dependants of any country involved in this market. Enforcement of these is expensive. The government places a high priority on the integrity of the student visa program. During 1999-2000 over 3000 student visas were cancelled on shore; a further 2000 were cancelled off shore in that year. That is a very significant amount of compliance activity, which of course has costs, and the application fees

seek to cover some of those sorts of costs as well as the application processing costs.

A fourth factor is that we are in the process of introducing an electronic student tracking system which enables us to track students from the point that they are offered a confirmation of enrolment by the education institution in Australia through to the point that we receive their visa application, visa assessment, grant, arrival, start of the course in Australia, completion of the course in Australia, and either eventual departure or application for another visa. That is a very substantial system that DETYA, ourselves and the industry are involved in introducing, and we are doing that at the moment with no additional cost in terms of the application fees charged to the students.

By contrast, the United States is introducing a very similar system and it proposes to charge \$US95 per student, which is not covered as part of the fee but it comes in as a supplementary charge to the headline fee. As you've already also mentioned, the Australian fee includes \$30 for the cost of promotion of Australia's education both overseas and in Australia. That relates to a function of the Department of Employment, Training and Youth Affairs, and it is a component of the fee that is generally not included in the fees that other governments charge - or not as far as we're aware.

**MRS OWENS:** The English Australia claim in their submission - have you see their submission?

**MR RIZVI:** Yes, I have.

**MRS OWENS:** That the students actually obtain all the information regarding Australia as a destination for their studies directly from their institutions and their agents, basically arguing that the \$30 shouldn't be charged because, you know, they're not getting the information through those other sources. They basically refer to it as fees without service. You probably saw that.

**DR STEWARDSON:** I think associated with that was the point that there is offloading of services onto the private sector which charges a fee, but there is no diminution in DIMA's fee. That's the point.

**MR RIZVI:** Yes, in respect of the \$30 of the whole fee portion, it is difficult for us to comment. It relates to a function of another department. It was a fee agreed to by government in order to offset the costs of the function undertaken by that department. While it's difficult for us to comment on whether that service they provide is a good service or bad service or whatever, I think they would have to argue their case, but I am aware that throughout a number of major markets around the world, the Department of Employment, Training and Youth Affairs has in place education counsellors who are involved in a very significant way in promoting Australian education overseas.

They may not necessarily do that in respect of one market or another market.

They are really promoting Australian education as a whole. I suppose you may get arguments from one sector or another sector that, "We are not adequately represented in that promotion." That may or may not be the case. As I said, I think that is a matter of judgment as to whether an adequate return is being received by the industry for that \$30 fee. It's really a question that DETYA would need to be able to answer.

**MRS OWENS:** Yes.

**DR STEWARDSON:** Just to be clear what the question is, the point that they were making was that the government - whichever department it is - as it were is outsourcing its job to the private sector overseas, which is charging for it and the government is still charging the same amount as it was as if it was doing the job. In other words, what they're saying is that they're being charged twice. I understand your answer may be, "Well, it's another department" - not yours. But I think that was the point or one of the points they were making.

**MR RIZVI:** I can't comment, really. It's got to be something that DETYA should respond to.

**MRS OWENS:** We'll ask DETYA about that. There is another issue that you've raised on page 5 of your submission, the last page before the attachments, and that relates to charges for third party service delivery. You talk about an increasing number of government services to the public being contracted out for delivery by third parties. I presume that includes some of your services. Is that right?

**MR McMAHON:** Yes, there are some of our services which that relates to.

**MRS OWENS:** You say in some cases the service provider charges for the service even though the service is free of government charges to the third party and may involve blind assessing of government systems and so on. If those third parties - maybe I've misunderstood this - can charge out, do you have any control over what they can do?

**MR McMAHON:** No, we have no direct control. It may well be that, for example - this particularly relates to the electronic travel authority. Are you familiar with the electronic travel authority?

**MRS OWENS:** No, just tell us what that is.

**MR McMAHON:** Okay. Essentially about 80 per cent of all visitors who come to Australia come here with visas without actually even knowing that they've applied for a visa. We definitely have the most advanced system arrangements for visa issue in the world on this front. What happens, for example, is a person in America may go to their travel agent, they book their travel, the booking system that they're using - the airline booking system will then talk to - we've got interfaces on the back. They then talk to our systems and our systems will check the person's name to see whether or not they're a person of immigration concern. If they're not a person of immigration

concern the person will simply be issued their ticket and a visa at the same time and it's electronically recorded at all our ports. So when the person enters they will be checked again to see whether or not they're the person. As far as the person knows they've actually had visa-free entry into Australia.

If there is a match that occurs the person would simply be told at the time that they were getting their tickets that they would need to visit an Australian immigration authority. In some countries what we do is have a number of agents who actually can issue that, so we have a network of agents. It is possible that the agents will advertise that service and basically say, "Look, you don't need to go to the Australian Commission. Come to us and we will look after your visa arrangements at the same time, and our visa fee is 30 pounds or 40 pounds" - or whatever. They have been as high as that in the UK. We don't have direct power to control what an agent might be charging. For a start it could be that there is some level of packaging taking place with the agent. The agent may actually be providing other services as well as the visa. It's not that we don't have any control because our primary concern has been, over time, to make sure that there is competition in the market and so a lot of our activities have been directed at trying to get more agents involved. It's quite clear, for example in the UK, that we started with essentially one major agent and there has been enormous pricing pressure on that agent as other agencies have come in and started offering the services. Certainly some of them are very dramatically cheaper and that's a process that we would encourage.

**DR STEWARDSON:** But is the person who gets an electronic travel visa - is that the term?

**MR McMAHON:** Yes. Travel authority, ETA.

**DR STEWARDSON:** Do they pay for that?

**MR McMAHON:** They don't pay for it, no. There is no charge from Australia. What happens is that we pay on a per unit basis to the company that provides the service to us.

**MR DAVIS:** It is somewhat dependent on countries. I have a small amount of information here which suggests that in Japan, UK and Singapore - they are the three major ones - there is an internal market operating, whereby the agent is charging. In France, Germany, Switzerland, Korea - as examples - there is no charge for the travel agent. He's not charging at all. In Canada and the US it's predominantly no charge. It does vary country to country and it does depend on, I guess, the power of the agent in that country and the degree to which they can influence the market. But they are charging for their service. The ETA itself is free.

**MRS OWENS:** And they charge that back to you.

**MR McMAHON:** There is a company called CPS. CPS basically runs, if you like, the electronic machinery for us and there is a certain amount of intellectual property in

that. Each time an ETA is issued there is a per click charge back to the department. From time to time we renegotiate that charging or whatever. But the service that is provided by the agent is actually a matter between the agent and their client and it may or may not be that their charges cover a range of stuff, although they may be advertising visa issue as part of that service. The US is a good example where it's a very major market for us and the service charges tend to be extremely low.

**DR STEWARDSON:** A very basic and ignorant question, then: given what you've just explained about the electronic travel authority, why does anybody pay for an offshore visitor's temporary visa of \$60?

**MR McMAHON:** It depends on the nature of the visa, but Abul will answer that.

**MR RIZVI:** The electronic travel authorities are available in 31 countries that have been assessed by the government as being of relatively low immigration risk. It is available to nationals of those 31 countries and economies. Any national of any other economy does not have access to the ETA and must apply for a normal paper visa. That has to go through a bona fide assessment check which involves substantial work on the part of our overseas posts, and it is for that visa that there is an application fee of \$60.

**DR STEWARDSON:** I see, thank you.

**MRS OWENS:** That's clear. I was wondering when you were talking before about ETAs, what ETAs were. I know there was a \$50 charge for ETAs, but - - -

**MR McMAHON:** But for the non-ETAs, yes, which was the fee actually that - - -

**MRS OWENS:** I should have asked you at the time.

**MR McMAHON:** Which is now \$60.

**MRS OWENS:** Now \$60, right.

**MR McMAHON:** When we introduced it, it was a \$50 charge.

**MR RIZVI:** There's been an increase.

**DR STEWARDSON:** Just a small question for clarification: on paragraph 33 you say that you encourage payments by credit card, but clients typically prefer paying in cheque, cash. Receiving cash creates security considerations for DIMA, is inefficient and actually costs DIMA money. Do you mean that the cost of dealing with the money is actually greater than the money you get in, that it is a net loss to you, or do you just mean that it is a cost?

**MR McMAHON:** No, basically it's more expensive to be dealing with cash in many cases than it is to be dealing with other forms of electronic transactions and that.



**DR STEWARDSON:** All right, but it's not a net loss to you.

**MR McMAHON:** No.

**DR STEWARDSON:** Thank you.

**MRS OWENS:** Returning to this point that you don't retain the revenue, and that it goes back off into consolidated revenue, what incentives are there on you to (a) collect the fees and (b) to operate efficiently?

**MR McMAHON:** The collection of fees actually comes to our fiduciary requirements really in many respects. We have a statutory responsibility to collect it. You might say that there are a whole range of assurance measures that sit out there that would require us - including if nothing else, the Australian National Audit Office who has the potential to qualify our accounts, and certainly has focused on revenue collection as quite a major issue for us. But under the Financial Management Act the secretary has responsibility for basically ensuring good governance within the department and we have a lot of internal processes which are directed at providing that assurance, including basically audit check lists that everyone has to produce, etcetera. We spend quite a bit of time ensuring that that takes place for very good reasons.

The area in which the greatest discipline would be placed on us in respect of efficient functioning is through the purchasing agreement arrangements, where we basically have to negotiate - each time a purchasing agreement comes up we need to negotiate the price of our services, basically the cost to government. Normally there is a review of data and price setting which contains a degree of assumed efficiencies or whatever.

**MRS OWENS:** Good, thank you.

**DR STEWARDSON:** Just trying to think more broadly about the rationale for your user charge activities, I think you've said - and correct me if I'm misattributing to you - that there is an element that you feel some pressure from government to generate funds to spare the overall tax system. You've said more specifically that you see your user charges as a rationing device so that you don't get relatively frivolous applications, but I'm thinking of the question of who benefits from the whole visa system. I guess there is an implication that the person who has to apply for the visa and gets it granted benefits, because they can come to this wonderful country, but in the light of your explanation about the electronic authorities and the fact that those who actually have to apply for the visa and not getting it electronically are from countries that I think you described as high-risk countries - there is an element there of the greater screening required and so I guess, in a sense, maybe your rationale is that the Australian community is the beneficiary because what you're saying is that there are more likely to be people that you'd regard as undesirable immigrants coming in on whatever criteria you use, so I'm just wondering whether it's the entrant or the

Australian community that's the beneficiary of the visa from that group of the non-31 countries or whatever it was.

**MR McMAHON:** That's a very reasonable question actually. I have to say the pressure on government and the rationing issues were ones which were predominant in our mind probably in the 80s and early 90s before we actually moved significantly to a charging system. I think they're of less relevance now because there's such heavy charging on users. But I think you could argue that the beneficiary in respect of any visa is really the Australian community, because the visa system is there to allow, basically, the orderly arrival and departure. There is definitely a benefit to the recipient because the recipient will know that they will be able to enter a country ahead of time, and that's a very important consideration in international travel.

There's no doubt that if you simply did not care whether or not people were going to stay in your country or who entered, then you wouldn't require visas at all and there would be no enforcement regime that then sat on the back end of the visas. But in terms of what Mr Rizvi was saying before, it's quite clear - and one of the reasons why the courts would not regard some of our charges as acceptable is because at the front end it may be a processing charge but at the back end we've actually got to basically build in costs about - on average about the people aren't returning and the fact that we have to locate them and sometimes pay for their removal. So even in respect of the straight-out costing, you can see that there are two ends of it.

**DR STEWARDSON:** There's a policing element as well as a screening one.

**MR RIZVI:** I suppose there's a third layer of beneficiary and that's where, in specific visa classes, the relevant industries are involved, and they are of course also important stakeholders to consider.

**DR STEWARDSON:** Do you look at that sort of thing or is it more that you're, for better or worse, sort of locked into the system that you have where the - and which I think is fairly common around the world, that the applicant - - -

**MR McMAHON:** We have a very extensive consultation process which the minister conducts every year, and in general I'd have to say - although Abul can comment on it more recently than I can - the issues which are raised tend not to go towards charging. It can sometimes be raised but they go more towards the conditions on entry and access and exactly how certain aspects will be evaluated, how you evaluate a family relationship or whatever. That certainly is the predominant focus, not the charging.

**DR STEWARDSON:** Yes, you said somewhere or other that you've done research on people's preference about migrating to Australia and you think that they're not affected by the charges. Is that something that's published research? Can you tell us something more about it? Is it available to us?

**MR McMAHON:** I don't know whether we've actually conducted some research on that, although I think the Bureau of Immigration and Population Research did do some of that early on. But certainly I think our examination of international literature suggests that it's not a major issue for most people, mainly because normally the cost of the movement itself is so greatly outweighed by the other cost. It's reinforced by us because we've been going through a quite comprehensive consultation process for the last 12 years or so and it is not the issue that comes up. Certainly some of the areas are very well poised to be able to make an argument - for example, business - and it's certainly not where they focus their attention.

It's also clear that in many cases the fee that we charge is much more than the fee that the migration agent will charge for actually doing the processing. A lot of businesses, for example, simply allocate the work to migration agents who may charge five, six, maybe even 10 times our fee to actually do the processing of it. So it certainly hasn't been a major issue in respect of business entry and in respect of family entry. As I said, the focus has tended to be on the conditions of entry and, if an approval does take place, then the actual removal costs tend to be greatly outweighed. I have to say that more recently some of the non-visa charges that have been introduced, probably in terms of trying to cover the cost of hospital care or whatever in Australia - or medical care in Australia - may be much more major issues but they're not primarily there as a visa charge.

**DR STEWARDSON:** I'm still trying to sort of get the principles on which you operate. I notice that in respect of the adult migrant English program you talk about you do impose a user charge but you say that you got about 7 million - this is in appendix B - in revenue, whereas the cost of providing the service is 90 million per year, so an obvious big shortfall. What's the rationale for the shortfall? I mean, I can conceive of some that are quite virtuous but I just wonder what your rationale is.

**MR McMAHON:** The issue revolves mainly around capacity to pay in that case, and the charges which are made - we have full cost recovery in respect to some classes of applicants. So if you're a business migrant, for example, you would pay the charge in full, but the predominant groups of people who need that are actually not in the business classes, they're in the family classes, and the government has taken a decision over a long period of time not to charge those groups.

**MRS OWENS:** So that's a government decision that they're really seeing that as a community service obligation, of a public interest to have people learning to speak English.

**MR McMAHON:** Yes, certainly the whole scheme basically we would regard as having an economic rationale and that is that we - I mean, there's plenty of research around that shows that one of the greatest factors prohibiting labour market entry is English, and it's in our interest to increase the level of English as rapidly as possible to allow that to happen.

**DR STEWARDSON:** We have some interesting comparisons between the different

groups that we are talking to. What you've just said is a perfectly reasonable statement. We were talking before lunch with someone from the airline industry and there the cost of operating towers in small airports that are mainly used by charter planes and people with private planes and maybe occasionally the small regional airlines are beyond the resources or are said to be beyond the resources of those users to pay, just as it's beyond the resources of your immigrant to pay for the language. In that case, while there has been a community service obligation for the government to pay, that is under review and it appears to be very questionable whether it's going to be renewed, and there is then the question of who pays for this presumably desirable service of safety for the airlines, and is it cross-subsidised from big airlines or what? There's something of a similarity between the two cases and it's just interesting that there appears to be a different solution in each case. I'm not saying either is right or wrong.

**MR RIZVI:** There is. In respect of the settlement services that government provides, and the adult migrant English program is probably the most important settlement service the government provides, it's taken a clear view that it categorises migrants in three ways. Essentially it says that migrants who enter under the skilled stream of the migration program should have a capacity to look after themselves and hence, where they are provided with a service there should be cost recovery as a general rule.

There are migrants who enter under the family stream who are sponsored by their families in Australia, and the government has generally taken the view that settlement services that are provided to those persons should be met, to the maximum extent possible, by the person doing the sponsoring - the family back in Australia. The third stream is the humanitarian stream, where the government has clearly said it is the taxpayers' responsibility to look after that particular group and all settlement services that are provided to that particular group are provided free of charge.

**DR STEWARDSON:** You may have told us in this submission or in your questionnaire roughly what proportion overall of your costs of operating are recovered either by user charges or cost recovery.

**MR DAVIS:** Yes, we have. On page 1 of our submission 98-99 was the last cash year. The figure was in the 42 per cent range or around 42 per cent, and in attachment A we also have accrual figures there which also reflect about 42 per cent, so it's thereabouts.

**DR STEWARDSON:** It's fortunate that it's similar, isn't it?

**MR DAVIS:** Yes.

**MRS OWENS:** It's increased pretty significantly since 94-95, when it was about 20 per cent. There's been a pretty major increase, hasn't there?

**MR DAVIS:** It's been fairly steady for the last 10 years really.

**DR STEWARDSON:** Why the increase? What's been changing?

**MR McMAHON:** We've been increasing charges and extending the range of charges, basically, over that time. Certainly a lot of charges we have stepped away towards - you know, basically what you would regard as full cost recovery or whatever of the charging.

**MR RIZVI:** While my colleagues are looking at their figures, there is of course a limit on the level of user charging we can achieve because there will always be that humanitarian program component which, unfortunately, under the unauthorised arrivals over recent years - because of the rising portion of those and because there is no cost recovery involved in that particular area, the costs associated with those cannot be recovered as a general rule and, as a result, what you're seeing is a portion of departmental costs where we just simply could not recover.

**MR DAVIS:** Indeed, when you project these forward the picture is fairly flat in terms of level of recovery or even falling in the forward estimates because the costs that are being borne in the area of detention and unauthorised arrival, etcetera, have actually gone whereas the revenue is not keeping pace with that at the moment.

**MRS OWENS:** It's not going to double again in the next five years?

**MR DAVIS:** No, I don't expect it to.

**MR McMAHON:** As I said, I think we've reached our natural limits in a range of areas.

**MRS OWENS:** Okay. I think that we've probably run over time and we've kept you longer than you expected. Have you got anything else you'd like to say before we move on to our next participant?

**MR McMAHON:** No, thank you.

**MRS OWENS:** Well, thank you for coming and thank you for explaining some of the issues in your submission for us. It was a clear submission anyway but we always find something to discuss. We'll now break briefly and bring up our next participant.

**MR RIZVI:** Thank you very much.

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**MRS OWENS:** The next participant this afternoon is the Australia New Zealand Food Authority. Could you please give your name and position with the authority for the transcript?

**MS PONTIN:** Claire Pontin, general manager, strategy and operations.

**MRS OWENS:** Good. Thanks, Claire, and thanks very much for the submission and thanks for coming this afternoon. I'm sorry about the very slight delay. Would you like to make some opening comments and then we will move into some discussion. Thank you.

**MS PONTIN:** Firstly, could I apologise for the lateness of our submission. I am conscious that we only got it to you yesterday.

**MRS OWENS:** But it was nice and short. It was only nine pages. It's much more difficult when we get 40 or 50 pages at the last minute. That's fine. We're just pleased to get it.

**MS PONTIN:** We were pleased to get it to you. Firstly, we welcome the inquiry. I guess cost recovery has been an issue for ANZFA, which is only a small organisation, since 1994. I would have to say during that time I think at times we have struggled without any clear guidelines in terms of how to apply cost recovery, so we welcome the inquiry and the outcomes, and look forward to the outcomes.

It might be useful for me to explain the nature of our organisation. It is quite a unique organisation. Just to give a bit of context for it: we're established really by agreement from originally the states and territories. The Commonwealth itself has no particular power under the constitution to regulate or do anything particular in relation to food, but the states and territories agreed by a formal agreement in 1991 to establish a national agency to develop food standards and in 1996 were joined by New Zealand in that arrangement, making us quite unique in that we now develop food standards for Australia and New Zealand.

The standards that we produce are generic in nature in that they apply equally to all manufacturers of food. That is to say they're not like, for instance, approvals for therapeutic goods which are proprietary goods. These are generic standards by and large. Our primary objective is to protect public health and safety but we have secondary objectives of providing information to consumers and preventing misleading and deceptive labelling. That points to the fact that there's a large component of public good in the work that we do.

I guess in terms of explaining how we have got to cost recovery, which was only a recent arrangement for us, it has quite a history, as I say, going back to 1994 but it really became a problem for us - well, our budget became a problem for us more recently. The ANZFA Act that sets out the process by which standards are developed specifies a lengthy sequence of events, including two rounds of public comment, and

also gives us a statutory time frame in which we have to respond to applications to develop or vary food standards. Those applications can come from any individual or organisation.

We found ourselves increasingly with improved technologies or different technologies in the food industry and the desire for the food industry to innovate and to produce new products. We were finding that the demand on our services was outstripping our budget, our ability to provide those services. So we initiated some work to amend our act to facilitate the introduction of a staged work program which really was giving us the power to better manage our work. Prior to that we were obliged to finalise an application 12 months after we had received it, regardless of how many we might receive in any one year - 10, 20 or 300.

Now we can stage that work over a three-year work program, which is a rolling work program, and the new act and the regulations associated with it allow us now to charge, in two particular circumstances, and only two. One is where there is what's called an exclusive commercial capturable benefit to the applicant, which is a bit long-winded but it's actually conveniently defined for us in the act. In the second situation, where an applicant - although there might not be any exclusive or not be an exclusive capturable benefit - decides that they don't want to wait the two or three or four years to have their application progressed, they can elect to pay a fee which will enable us to supplement our resources and progress that one more quickly.

Sitting alongside those two categories of work is a third, which is the one that we reserve for work where there's a high public health and safety need, things that we're more likely to initiate ourselves or have suggested to us by the ministerial council or the states. At the moment we can reserve up to 90 per cent of our standards budget for those priority public health issues and are only committed to spending a minimum of 10 per cent of that budget on the waitlisted, if you like, applications.

We introduce the regulations effective from 1 July. As of this date, mid-December, we haven't yet applied any fees. The nature of our work is such that applications come in in a regular, unpredictable way. We currently have a couple of applications that we have received recently that we're considering probably falls into one of these categories, but we haven't yet issued any notices under it. We don't have a good feel for how many of these types of applications there might be each year so it has been difficult for us to assess the impact of the cost recovery arrangements. Historically, the number of applications are variable.

I guess, just to sum up where we want to go in the future, we see the need to consider extending those arrangements at some stage in the future. It won't happen over the next 12 to 24 months, I wouldn't think, but at some time in the future, subject to policy approval, we will need to consider possibly extending those arrangements to cover situations where there is less than an exclusive benefit provided to the applicant, and may well wish to consider at that stage imposing some sort of partial cost arrangement. The other one we mentioned in the submission was perhaps

an across-the-board lodgment fee for all applications of a lower amount. Is that enough of a summary?

**MRS OWENS:** Thanks, Claire.

**DR STEWARDSON:** Can I ask a question about the last few sentences.

**MS PONTIN:** Sure.

**DR STEWARDSON:** Why do you think you may want to consider this extra charging? Is it simply that you're feeling under pressure to contribute more money to the consolidated revenue fund?

**MS PONTIN:** We haven't been under any direct pressure from the Department of Finance lately to do that but historically we have, in the past. There have been a number of occasions on which we have been urged or pushed by Finance to implement cost recovery, and for various reasons it didn't happen at that time. At the moment it's really acknowledging the reality that government appropriations are constrained. Our work seems not to be constrained.

The food industry is growing in magnitude. It currently generates a turnover of \$40 billion in Australia, which is quite a large sector of industry. There is a rapid increase in new technology, such as genetically modified foods, all sorts of strange, novel foods that have never been in our diet before. 10 years ago I think the regulatory system was relatively stable and was able to cope with that. We're finding now more and more need to respond to industry and also to consumers, increasing awareness of the role of diet and food in a healthy lifestyle. We have noticed a trend towards increasing numbers and increasing complexity of the types of applications that we are receiving and the concerns by the food industry that we need to be able to handle these and progress them more quickly than we currently are able to.

**DR STEWARDSON:** Because this really does go - this is in the last paragraph or two of your submission on page 6 - quite counter to the rest of your rationale for charging to date, where it's only been those two exceptional cases that you mentioned, and now for the reasons you have just outlined you're looking at charging a fee apparently for all applications - generic as well as commercially capturable benefit type cases - and perhaps also a proportion of the actual cost of assessment, discounting the amount of public good involved, notwithstanding that your case up until now has been that in most cases it's all public good. So it really is quite a major turnaround you're contemplating.

**MS PONTIN:** It's not really a turnaround from our perspective in that we have been having discussions with the food industry in particular for a number of years now and I guess we have different opinions about the level of public good that might be embodied in these applications. They would argue that it's almost 100 per cent and we would argue that it's something less than that in many cases. The difficulty, of course, is quantifying that. It's a difficult argument.



When we started work on bringing in these new arrangements, certainly we were wanting to bring it in more broadly. The negotiations that we had with the industry at that stage were lengthy and sometimes quite heated but at the end of the day, when the legislation was presented in parliament, there were changes made to the legislation and the effect of all those changes and negotiations between the various people involved in that was that there were some quite constraining limitations put on the extent to which we could cost recover. We don't have at the moment any worked up proposals to change it. We were just wanting to foreshadow that over the next couple of years we will certainly be looking at having another go at getting something in that's a bit more widespread.

**DR STEWARDSON:** But you believe, in the interests of public health, that you need to do more testing - particularly, I think you said, in relation to new products, albeit generic ones - and basically you're not getting money to do that from your appropriations and so you wanted to charge and you're not being allowed to charge. Is that the - - -

**MS PONTIN:** That's partly right. The other piece of information I need to give you is that at the same time as these changes went through for our act, there was an expansion of the type of standard that we can now produce, and it was largely driven by things like genetically modified food and all these novel products that are coming on the market where there was recognition, I think, that the food industry and the nature of our food supply is changing to such an extent that if we weren't able to approve these products on a case-by-case basis, that it might end up with either - depending on how precautionary we were in that approach - a total refusal or a total permission for them. We wanted to be able to do something halfway, which was to not permit some of these products on the food - until each individual product had been assessed for its safety and other things.

**DR STEWARDSON:** The product is still a generic product or a brand product that you're talking about?

**MS PONTIN:** We have the power now to approve a particular product, and that might be a brand or it might be something that has a patent attached to it or something like that, following a more rigorous safety approval. Several years ago there was no need to do that and we didn't. We used to develop standards that applied across the board. So the changing nature of the food supply and the changing approach under the legislation now requires us to assess some individual products on a case-by-case basis which, in itself, increases our work. Whereas before it might have been a generic standard, now we might have 20 or 30 applications for a particular type of product.

**DR STEWARDSON:** So why don't they fall into your exclusive capturable commercial - - -

**MS PONTIN:** Some of them do, yes. We get down to the difficulty of actually

proving or disproving whether or not the benefit is exclusive; whether or not it's capturable. It's not an easy - - -

**MRS OWENS:** I would like to come to that in a minute but I would just like to go back to this issue that Robin has raised and what you are really saying is, since the review that you mention on page 3 in your submission back in 1997, there have been fairly significant changes, because at that time that review concluded that, to the extent that you're dealing with more generic products, there may be a free rider effect if you charge for applications and so if there's a free rider effect you won't get any applications. I suppose that was the problem.

**MS PONTIN:** That's the argument.

**MRS OWENS:** What you're saying is that in that three-year time frame things have changed.

**MS PONTIN:** They have changed - not totally. We haven't swung 100 per cent from one to the other. There's now a mixture of both coming through, both types of applications.

**MRS OWENS:** Yes. At that stage there was also a proposal to charge for entrepreneurial activity.

**MS PONTIN:** Yes.

**MRS OWENS:** And there was a concern that that might divert resources away from core functions, you say here. I think in terms of other agencies that we've spoken to, if they were going to divert resources they basically quarantined those resources and said, "These resources are just going to do this activity."

**MS PONTIN:** Yes.

**MRS OWENS:** And they'd put a bit of a Chinese wall around it so that you're not necessarily then undermining the resources that are doing the core stuff.

**MS PONTIN:** Yes.

**MRS OWENS:** So there are ways around that.

**MS PONTIN:** That's true.

**MRS OWENS:** Coming to the capturable commercial - - -

**DR STEWARDSON:** Exclusive capturable commercial benefits.

**MRS OWENS:** Is it actually possible now to pinpoint ex ante where there are going

to be exclusive capturable commercial benefits?

**MS PONTIN:** Yes, we can. It was just the nature of the timing of the introduction of this, that in the preceding 12 months we had received, for example, 19 or 20 applications for specific genetically modified products. Now, these are products that are subject to patents and proprietary ownership. That's the sort of thing that we would expect to be picked up by these new regulations. Moving away from the genetically modified foods, there are products being developed, chemicals that have never been used in food before that change the nature of the food, and there have been a number of these in the past. It's just that in the period since 1 July to today, there have only been a couple of applications which we're still trying to work out whether or not - - -

**MRS OWENS:** So those two applications you mentioned earlier really relate to these GM products.

**MS PONTIN:** Sorry, no, I didn't bring details of them. I don't believe they are GM ones. They are more in the novel food area.

**MRS OWENS:** So you haven't had any applicants that want to fast track an application yet?

**MS PONTIN:** Not yet, though we've had one inquiring in the last week about that. It's obviously a commercial decision for the applicant. They need to weigh up those things: what are the implications for my cash flow if I wait for two years? Is it worth the cost?

**MRS OWENS:** You are going to have exactly the same issue arising with the entrepreneurial activity that we saw about three years ago. If you are going to fast track you need to somehow, don't you, quarantine some of your resources for that activity so that it's not interrupting or jeopardising your core activities.

**MS PONTIN:** Absolutely. We've been very clear about that. The way that we say we are going to handle it is by using contract staff to temporarily inflate our numbers so that we can deal with those things.

**MRS OWENS:** I think it was the Grocery Council's submission that said they didn't think that you'd ever get anything with exclusive capturable commercial benefits.

**MS PONTIN:** That's why they argued strongly for those words, yes. They're obviously a fierce opponent of cost recovery in this area.

**MRS OWENS:** Yes. So they thought they were fairly safe by arguing for those words. They thought they'd probably be pretty right, there would be no charges.

**MS PONTIN:** Yes. We haven't actually tested it as yet. We've got a couple coming up.

**MRS OWENS:** We're just a bit early with this inquiry at the moment. Maybe by the time we're getting closer to the end of the inquiry you might have one that's gone through.

**MS PONTIN:** Yes.

**MRS OWENS:** It will be interesting to monitor that.

**MS PONTIN:** Yes.

**DR STEWARDSON:** When you say "tested" do you mean a law case?

**MS PONTIN:** No, we haven't actually got to the stage of issuing a notification to any applicant where we believe it is one that falls into that category, and therefore subject to a fee. That decision is open to appeal so we would expect that if they consider we've got it wrong they'll come back and ask for a review of that decision.

**DR STEWARDSON:** Who conducts the appeal?

**MS PONTIN:** It's an internal arrangement we've set up at this stage, but ultimately it will go into other realms.

**DR STEWARDSON:** So you conduct the appeal.

**MS PONTIN:** We've set up a system that includes an internal review as the first step, yes.

**DR STEWARDSON:** It's quite a broad issue for us in this inquiry. One line of argument is that we should try and distinguish between public goods and private goods and in your situation here I think you are really saying that there is a lot of private good element in the things you test, but because they are generic there would be a lot of free riders hanging on to the person who was tested and paid the first fee, and therefore it's unfair to charge that first person, so therefore you're only doing it when there's a situation where you can't get free riders, basically, with these patented processes. That's what you're really saying, isn't it?

**MS PONTIN:** That's right, or, in the second category, where the applicant makes a commercial decision to pay or not. Those sort of applications could be ones where there are free rider effects, but that's a decision they would make.

**DR STEWARDSON:** Make a commercial decision.

**MS PONTIN:** Yes.

**DR STEWARDSON:** Your submission to - not your submission to us, but your

submission to the government when they were drawing up this act you said was for a broader definition. How did you propose getting - I take it that a broader definition was all private goods. How did you propose getting around the free rider issue?

**MS PONTIN:** When we first started talking to industry about it - it was all negotiated. We had an undertaking that we would discuss it with them and develop it in tandem, and it fairly quickly became apparent through that process that the industry was very keen on restricting it down to a situation where there was exclusive benefit. We had originally tabled an arrangement much like what we're proposing we want to come back to in the future some time, but there might be some proportional charge relating to the amount of public versus private good.

**MRS OWENS:** How do you actually pin down that proportion?

**MS PONTIN:** You don't, that's the difficulty.

**MRS OWENS:** It's a difficulty we're facing because we have to think about this. But we just wonder what other people have been thinking about this.

**MS PONTIN:** No, I look forward to hearing what you come up with on that. I think it's the hardest question to answer. The consultant that we engaged in 1997 - I think it was - suggested at that stage that, speaking very broadly, you could roughly attribute about 25 per cent of our cost towards a private good versus 75 per cent public good. Now, it is a subjective decision. At that time industry came back and said, "Well, we disagree with you, it's 95-5." I don't know how you resolve that.

**DR STEWARDSON:** But there was an additional problem besides the - I think I'd regard it as an addition problem of the free rider, as well as the public private split.

**MS PONTIN:** Yes, that's right.

**DR STEWARDSON:** Was that issue addressed in the consulting?

**MS PONTIN:** It has been an issue over the years. We've discussed this at various times with industry and with others.

**DR STEWARDSON:** Did your consultant try to wrap that in with his 75-25?

**MS PONTIN:** He was proposing at that stage some interesting options and the one that he ended up recommending was that we negotiate a voluntary arrangement with the largest industry players in Australia. At the end of the day it sort of avoided that issue. It wasn't something that we went ahead with.

**DR STEWARDSON:** What would that have done?

**MS PONTIN:** He was suggesting that we talk to the peak industry - not the peak groups - the large food companies in Australia and negotiate an arrangement whereby

they might voluntarily contribute to the cost of running the regulatory system, to the extent that they might contribute up to 25 per cent of our budget.

**DR STEWARDSON:** In other words, a levy on part of the industry.

**MS PONTIN:** Voluntary levy, yes.

**DR STEWARDSON:** I see.

**MRS OWENS:** That was another proposal, wasn't it, an earlier proposal? Back in 1997 there was a levy or voluntary contribution and it says here that there was strong stakeholder opposition. So there wouldn't be too many voluntary contributions, I think, given that.

**MS PONTIN:** No, surprisingly though when that particular consultant - who was Mike Codd - went out and spoke to some of the big companies they were actually quite happy. I mean, in terms of their turnover, the amount of money that was being discussed was small. Didn't get agreement from all of them at the time, but then there was a decision not to proceed with that anyway, but some of them had agreed.

**MRS OWENS:** They were happy because they thought they could pay a levy and get a better service than they might be able to get if you were strapped for cash.

**MS PONTIN:** I think they were recognising the fact that the system was getting bogged down; that we weren't - at that stage our forward estimates were declining sharply over a four-year period. They could see that they needed a reputable, credible, regulatory system to guarantee the safe food supply. They recognise there is some benefit in having a food regulatory system there.

**MRS OWENS:** How do you react to this proposal for future cost recovery - you say here that you get between 30 and 50 applications in any one year - - -

**MS PONTIN:** Yes, it varies a lot.

**MRS OWENS:** If only a few end up fitting into this category of some mixed public private good, the administrative costs of actually trying to work out the proportion of public and private and actually collecting the revenue could exceed the amount you're going to collect, couldn't it?

**MS PONTIN:** Depending on how we did it. If we were able to negotiate a proportion of the cost that was acceptable, then it might be, with some simple criteria. I mean, we haven't tried to do that, but hopefully we wouldn't come up with a system that was more costly to implement and we wouldn't go ahead with it.

**DR STEWARDSON:** If we were to come up with a recommendation that said that we thought doing things in respect to public goods should be borne by the government and people at large via the government, and we thought the sort of things

you do maybe with a few exceptions are broadly public goods - I'm just asking a hypothetical question - how would that affect your organisation? Would the government come rushing up to give you more money?

**MS PONTIN:** That's a question for the government. I don't know. I mentioned before that at one stage DOFA had requested us to implement cost recovery arrangements. It was the one that prompted the consultant's report that we were just talking about and, at the same time, prior to the implementation of cost recovery, put us on a sharply declining forward estimates. Over that period and based on the consultant's work and discussions across government, there was a change of heart, if you like, in that we sought supplementation and got it. Last year our budget was reinstated - in fact, higher than the previous level was. So that's been very useful, but we're still predicting that - we can see the effect of the work plan now.

In the past we didn't know what application to expect from one day to the next. Now that we've got a process whereby industry put in these applications and we put it on a three-year work plan, we can see the effect of that and we've got a work plan now that is blossoming into 2002-2003. We can just see the amount of work ahead of us and really feel that we need to be doing as much as we can to be supplementing the appropriation. But we accept that a very large proportion of our work - without wanting to specify - is public good.

**MRS OWENS:** You don't want more work, do you, because we've had a submission from the Complementary Healthcare Council - which you may have noted - they've probably spoken to you at some stage. They've been arguing that in most countries vitamin supplements are regulated as a food rather than as a drug and as such are usually not subject to fees. I was wondering whether you have a view on this issue, whether you should be picking up the TGA's responsibility in this area. Do you want it? Is it appropriate? If they were to be picked up by you, would they come in with a lot of products under your exclusive capturable commercial benefit, or would they be free - would you be looking at them free of charge? Or do you think they should go to a separate regulator? That's a big question for you.

**MS PONTIN:** No, it's one we're familiar with because we work very closely with TGA and obviously people who are involved in the complementary health sector. We are quite comfortable with the arrangement we have at the moment. There are shades of grey when you start looking at products at the interface between therapeutics and food. In the past it has caused more of a problem, but with our legislative changes last year and TGA's legislative changes also of last year, we were able to very closely align the definitions of those two products, so that there is less grey. We also have what we think is a pretty good process for determining which side of the line various products should go, if it's at all debatable. We're fairly comfortable with that arrangement and I'd have to say that I think part of the argument that we've been hearing from that sector of the industry probably in the past has been very closely related to the fact that if you were on one side of the line you did have to pay a large fee, and if you were on the other side you didn't.

**MRS OWENS:** So their motivation is to try and avoid fees - I can't ask you about their motivation, but the motivation may be because they think it would be a more sensible regulatory solution.

**MS PONTIN:** Certainly there was some incentive there, too, though, I think. Yes.

**MRS OWENS:** But you're not totally keen to pick them up.

**MS PONTIN:** No, as I say, we work very closely with TGA and we believe that the split at the moment, where it falls, is appropriate. There are some difficulties ahead for us in that there are a lot of these new products emerging. Part of the defining elements is whether or not something is issued in tablet form and has a recommended dosage. In the past a vitamin would fall very clearly into that category.

It gets a bit blurred when you talk about tonics and things like that, which might be to drink half a litre a day, but still if they're recommending a particular dosage we tend to think that a lot of those products then fall in the therapeutic side. But it's becoming murky because more and more food products are now being marketed because of their therapeutic effects, so it's never going to be 100 per cent easy for us, but we think we've got a regulatory system at the moment that probably does the best it can in Australia.

**MRS OWENS:** So in terms of those foods that have therapeutic effects, are you thinking of those like the margarines that lower your cholesterol?

**MS PONTIN:** Yes.

**MRS OWENS:** They can make that claim, can't they, but they can't actually say that it may help with coronary heart - - -

**MS PONTIN:** That's right. They can make a nutrition claim at the moment but there is some difficulty - at the moment there is a prohibition on what we call health claims, which is linking a food or a part of a food to a disease and saying, "This will help prevent that disease." Those particular products are sort of at the margin again and they are actually required to apply for permission to continue with them on the market, and they are doing that at the moment.

**MRS OWENS:** But there obviously are some, you know, peculiarities there that will need to be thought through.

**MS PONTIN:** Yes.

**MRS OWENS:** I think it probably goes outside our terms of reference. I think the only reason I'm asking these questions is that it sometimes means that you get these discrepancies in charging arrangements and does it make sense to have those sorts of discrepancies, and those discrepancies can reflect the underlying regulatory regime.



**MS PONTIN:** Yes.

**MRS OWENS:** I think we've just about finished. I think we are still running a little over, but thank you very much. Is there anything else that you would like to say before we move on to our next participant?

**MS PONTIN:** No, I think we've covered the issues.

**MRS OWENS:** That was very clear. Thanks very much. We'll just break for a minute.

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**MRS OWENS:** The next participant this afternoon is the Australian Chemical Specialty Manufacturers Association. Could you please both give your names and your affiliations with the association, or other affiliations, for the transcript.

**MS CAPANNA:** Bronwyn Capanna. I'm the executive director for the Australian Chemical Specialty Manufacturers Association.

**MR ANDERSON:** Rob Anderson. I'm with a company called Zep International Pty Ltd. I'm on the board of ACSMA and have been with the industry for 30-plus years.

**MS CAPANNA:** I would like to pass on the apologies of Dr Gordon Reidy, from Reckitt Benckiser, and Mark Davey from Cussons, who regrettably have been called away with urgent company priorities, so their sincere apologies. It's not through lack of enthusiasm and support for the issues before the Productivity Commission, it's just pressing company issues.

**MRS OWENS:** Thanks for that, but we're pleased to have the two of you here, so we'll get by. Yes, Bronwyn, you wanted to make some comments - or you both want to.

**MS CAPANNA:** Yes, if I could. Firstly, thank you to the commission for providing this opportunity for ACSMA to appear before the inquiry. ACSMA is the national voice of the chemical specialities industry. That industry is more or less defined as the downstream manufacturing of chemical formulated products, and we represent the raw material suppliers as well as the manufacturers, formulators of those types of products. They include household, industrial and institutional products, cleaning agents, protectants, disinfectants, hygiene preparations and various different treatment products.

ACSMA is very interested in cost recovery. We're particularly concerned with the cost and complexity of compliance with the regulatory agencies. ACSMA's membership crosses across predominantly three regulatory agencies: Therapeutic Goods Administration, NICNAS and the National Registration Authority. Our submission to the inquiry has detailed why we believe the reform of the regulatory structure is necessary if the industry is to get better value from the cost recovery arrangements. This means improving levels of transparency, efficiency and accountability.

We believe there is a need for an improved allocation of resources to risk and to better equate those. We have said also in our submission that a national chemical regulatory framework is needed to provide a more formal consultative structure and overcome a number of the inconsistencies between the regulators - as I said, we're crossing across three predominant regulators - and we believe in this way it would increase the understanding and confidence of the regulators working in the three areas. Such a framework would provide a mutual commitment of the stakeholders to public and workplace safety, environment education and a viable chemical industry in

Australia. Moreover, the framework would also follow the principles of good regulation, as already identified by COAG, looking at minimal impacts and regular review and flexibility of the system.

Our members do not oppose the principle of cost recovery, but are not prepared to fund a system that is inefficient or lacking accountability. If industry is to pay agency's costs it should be able to influence that agency's priorities and where the funds are spent. We have looked at improvements in accountability and believe they should include a more accurate and improved activity-based costing system for all of the agencies, and indeed, a set of agreed key performance indicators with an independent assessment of the agency productivity and efficiencies. We also have stated it's inappropriate and unfair to expect the industry to resource activities which provide a public benefit, including provisions such as policy advice and staff recruitment training costs, agency legal and other accounting fees.

Cost to the agencies, and therefore to industry, we believe can be reduced and primarily if there was recognition of approval of products and/or chemical assessments from overseas. This is a very important area and the lack of recognition has led to higher costs, substantial delays, or even products being prevented from reaching the market in Australia. We've also said in our submission that the introduction of competition in the chemical assessment may drive to cost savings and increases in efficiencies. Approvals would still be restricted to the public sector regulators, to safeguard health and safety and the environment, but the assessment process could be opened up to competition provided there were safeguards in relation to confidentiality of information. In our submission we provided a number of case studies which will hopefully detail and show how the regulatory system is actually increasing the cost burden for the chemical specialities industry. Rob, did you want to speak?

**MR ANDERSON:** Thank you. Allow me to speak first as a company and also, if I may, represent some of the other members of ACSMA, whose views I have sought. I'm not going to speak in detail about the submission. I think it's a very thorough submission and a good submission. Whilst our industry is affected by each of the agencies, I'm going to specifically talk about NICNAS. We have some real concerns about the efficiency of NICNAS and I believe they are very serious and important concerns. I'm going to talk about three of these and then we can perhaps enlarge on those later.

The first of them is that I believe the agency in its current form is stifling innovation and the excessive fee structure and level that's required to fund the activities with no commitment to speed or application is a heavy burden to impose on the Australian industry - a fairly small industry. The obstacles to the introduction of new products into this market seem to me to be opposite to the aims that are stated by NICNAS. Indeed, they are there to protect the consumer from unsafe chemicals and perhaps what they're achieving is to preclude the customers from having safer products which are available elsewhere in the world.

The reason I say that is because there is no acceptance of work that is carried out overseas. Products that are deemed safe in the US and Europe have to be retested in this country. That imposes an enormous financial burden and prohibits in many cases the introduction of product into this market. In our case the company that acquired my company has more than 2000 products in the US. One of the reasons they acquired this company was that they expected to be able to introduce those products, and they've been unable to do that. During that same period that they've owned the Australian company they have introduced some 250 to 300 products into the Italian market and of course you can appreciate where they believe they have the best opportunities in the future.

**MRS OWENS:** How many have been introduced here?

**MR ANDERSON:** None.

**MRS OWENS:** None?

**MR ANDERSON:** None. There are some concerns we have in terms of efficiency, there are some concerns we have in terms of cost and there are some concerns we have in terms of the manner in which the funding is sought. The registration fee concept is considered inequitable by virtue of the fact that it's very difficult to measure. It doesn't seem to, at this stage, consider public benefit and therefore how much should be publicly funded. It is an additional cash flow burden on the industry and this is an industry that is already at the top end. The major end, where I used to work, have already decided that they'll depart our shores and move to other places. This end of the industry, which is the formulating end, may need to follow, and that's my major concern. That's probably enough by way of introduction.

**MRS OWENS:** There's some pretty serious sentiments expressed there. You said at the outset, Rob, that you had three concerns about efficiency. I just want to clarify this. The first one was a stifling innovation concern.

**MR ANDERSON:** Yes. The second was the cost.

**MRS OWENS:** The cost, and the third one was - - -

**MR ANDERSON:** Just the delay, the difficulties.

**MRS OWENS:** Thanks. I think for the transcript that will help.

**MR ANDERSON:** One of the things that I guess that delay thing is also wrapped up in is the fact that there is no recognition of overseas work that has been done and for companies like mine that operate in several companies they have to pay more than once for the same result. If they're given a choice of a market like Europe versus a market like Australia, then obviously they will choose Europe and this marketplace will then suffer with the use of older and, in many cases, both less efficient and more hazardous products.

**MRS OWENS:** Yes, I thought that was an important point you made, that what we might be doing is preventing some safer products coming in.

**MR ANDERSON:** By the safeguards.

**MRS OWENS:** The safeguards, yes. And it's not just the fees, I presume, that they're charging, but it's just the overall compliance costs and what the companies have to do to actually even get it to first base with NICNAS.

**MR ANDERSON:** That's correct, yes.

**MRS OWENS:** We've been talking about the koala factor, the fact that Australia is in some way different from the rest of the world, so we have to do our own thing here and what we find very difficult to pin down is why we are so different and whether there are really important factors that need to be taken into account here, whether it's environmental or whatever. I'm not really sure what they are. Have you got any real understanding as to why we have to repeat some of these activities here?

**MR ANDERSON:** Let me say this, that I spent 10 years in Asia and worked in 14 or 15 countries in Asia, I've worked in the US and Europe, and I don't see the differences that people see. There are some different ingredients. On occasions, you can't get the same raw material here in Australia that you can get maybe in the US or Europe. That aside, you know, there aren't huge differences in our practices. We all travel a lot more these days and I think, as you travel, you see how similar we are, rather than how different we are. It seems to me amazing. In fact, in discussion we've had, one would argue that why don't we try and become more global in our approach? Instead of competing, feeling the need to surround ourselves and protect ourselves with big barriers, why don't we open up our capabilities to the world and harmonise and then compete by doing things better? The agencies could probably put themselves on the global market rather than protecting a little home market.

**MRS OWENS:** Yes. Some might argue that it may seem like a non-tariff barrier that we're erecting for some of these products.

**MR ANDERSON:** Yes. I've often heard in the past people criticise the Japanese for doing similar things: invent your own tests and make people comply to those tests.

**MRS OWENS:** Japanese snow? You've heard of the Japanese snow?

**MR ANDERSON:** Yes.

**DR STEWARDSON:** What you've been talking about here under principle L is, I think, also dealt with in example level in the appendices to the submission and I thought the appendices were very good and very helpful, but because there's no justice in the world and you give them a bit and they want more, I wondered whether

you could perhaps - not on the spur of the moment, but at leisure - help us even more than you already have - which I acknowledge is good - in some of the examples, particularly pages 12 to 14 and centring around 13. It would be very good if you could help us tie down some of these examples even more clearly, particularly two aspects. You talk about the problem of low-risk, but high-assessment costs. If you could perhaps tie that example down a little more, particularly bearing in mind that we're pretty ignorant, or I am, anyway, about chemical things.

For example, you say in what you have put there that in one particular thing, a log of time involved in assessing it now totals 160 hours. I have no idea whether that's reasonable or unreasonable for assessment of a particular product, if you could give us something to assess it by, and I don't know whether you can tell us on some basis what this product you're talking about is, you don't name it there. I think this issue of low-risk product facing high assessment, time and cost, is important and if you could do anything more by way of pinning down examples and perhaps suggesting to us how this might be better dealt with by having NICNAS acknowledging that it falls into this category and how should it be dealt with, that would be helpful.

Similarly, with the recognition of international regulations which you were just talking about, as I read through this, my note was, "Can you give us some examples?" You did then go on to give us some examples, which was good, and that was helpful. I did, though, have a question because in the box on page 14, you've spoken about companies facing costs of up to \$250,000 to generate the necessary data packages required for assessment when these things have already been assessed overseas. My question was were you slightly over-egging the pudding at that point. Wouldn't the company have to have paid to produce the data-evidence package for approval overseas, and therefore have it to hand, or at least for its own assessment purposes? Never mind the regulator. Wouldn't it have to have had something like this already to satisfy itself that it was okay and that it's not really an extra cost? Maybe I'm wrong, but you can see I'd like to pin down the examples.

**MS CAPANNA:** I think that we'd be happy to give the commission more case studies to expand on the arguments and provide additional evidence to our concerns. I think the box on page 14 was specifically trying to dispel the perception that the regulatory charge for evaluation is the biggest cost. It is a significant cost, as are the delays into the market which have not been factored into, for example, the box. What the example in the box was identifying, however, was if the data is not required in another country and you actually have to generate the data, so you actually have to do further animal toxicity studies that are not required elsewhere, that is a huge proportion of the actual cost. It also adds further to the delay as well.

**DR STEWARDSON:** My question I guess then becomes, does that often happen if the thing is being assessed in whatever - UK, America? Is the standard there a lot lower than here?

**MS CAPANNA:** It can actually impact in products such as personal care

preparations, so moisturisers or those that are coming in via NICNAS, and if those ingredients are being used in, say, cosmetics overseas, they may not be required to generate a level of toxicity, based on a risk assessment on the end use of the product. You also fall into difficulties with the personal care-type products as well when NICNAS requires some animal testing and you actually have a commitment within your organisation not to conduct additional animal tests on an essentially cosmetic product, and indeed you have some restrictions as to whether you can, then it more or less precludes the introduction of that ingredient and, at times, those ingredients can be rather insignificant in terms of the overall formulation, they may be there at a very low percentage, and so you're faced with having a reformulation and, given the size of the market, this may not even be feasible.

**DR STEWARDSON:** The sort of things you've just been saying come back again to this business of low-risk, high-assessment cost, which I think is quite an important issue that we'd like to hear anything more that you want to tell us about.

**MS CAPANNA:** Yes, and the difficulty of not accepting international definitions also highlights these problems and we have some specific examples in relation to disinfectants as well. I would like to put on the record in relation to some of the case studies that we've spoken about with antibacterial liquid hand soaps, we did have some very positive discussions with TGA yesterday in relation to getting a better risk resource regulatory arrangement for these products, so I think we are making some grounds in some of these areas, but it's skewing the market.

**DR STEWARDSON:** If it's not something that is confidential, can you outline to us how this is being arranged? Is the low-risk assessment something that is just to be verbally discussed and agreed by industry and the regulator?

**MS CAPANNA:** It would require regulatory legislative change, but we believe if you can put performance parameters in place without the high cost and delays through a formal registration process, as opposed to another mechanism such as having them still regarded as therapeutic goods, but exempt from inclusion on the register, that these are opportunities that still provide the same level of safeguards, but remove the high pre-market barriers to entry with the products.

**DR STEWARDSON:** Is it the TGA that's introducing the European - - -

**MS CAPANNA:** Devices.

**DR STEWARDSON:** That's for devices? Right, okay, so that's not for you.

**MS CAPANNA:** It is, because disinfectants are regulated as devices in this country.

**MR ANDERSON:** Can I just make two points before we get too far away from them. One is on the cost to industry. Some of the companies in Australia don't have overseas affiliations and so they would definitely have that total cost. But the real issue is the one you've grasped and that is the low-risk, high-compliance cost. I think

the situation we have to revisit that low-risk, high-compliance - we have to revisit the whole structure of NICNAS, because it's operating on the basis of having established a so-called inventory of products and that inventory of products was a snapshot at a point in time. It didn't take into consideration where the rest of the world was at that same point in time and I think what we would have to do to enable that process would be to revisit that restriction, that inventory, and look at - - -

**DR STEWARDSON:** You mean, because other countries' things have been accepted, whereas - - -

**MR ANDERSON:** Accepted as low risk, yes.

**DR STEWARDSON:** Accepted the failure and so they're now being tested in Australia because they're new to Australia.

**MR ANDERSON:** Yes, that's correct.

**MS CAPANNA:** It fundamentally gets to the definition of what's regarded as new.

**MR ANDERSON:** That's right. It may not have been new.

**MS CAPANNA:** It may be used legitimately overseas in even the same type of application for many, many years, but because it has not been provided in Australia, then it's regarded as new and treated technically a new chemical entity, and that's where industry's argument is, that the international status of the ingredients should be recognised.

**DR STEWARDSON:** Is the four-category European thing for risk assessment for devices and at least for some of your products - is that right - for disinfectants?

**MS CAPANNA:** Mm.

**DR STEWARDSON:** Is that sort of approach applicable to all your products? Would it be a solution to your complaint of high assessment for low-risk products at the moment?

**MS CAPANNA:** At the moment the decision is to harmonise with Europe, which will pick up some additional products that are not currently regulated in the cleaning of devices, but there is no movement to remove those that are currently regulated in Australia but not in Europe, so we have the capacity to be all-encompassing.

**DR STEWARDSON:** How would you draft a recommendation to deal with those things? I mean, presumably your ideal draft would be to exclude them from assessment altogether. But if that weren't going to happen, how would you try and achieve a quick low-cost assessment for something you believe to be a low-risk product and how would you get agreement that it should go into that category for that sort of assessment?



**MS CAPANNA:** We would discuss it with the TGA, as we have been for many, many years. When disinfectants were first introduced a raft of legislation was first introduced. The Therapeutic Goods Administration did not do a regulatory impact statement and so the regulation was driven more by a microbiological definition than one of an understanding of the range and scope of the products in the marketplace, and therefore if you don't know the range of products in the marketplace it's difficult to do a proper risk benefit analysis in terms of the objectives of what you're trying to achieve.

Effectively, the regulation drew a line in the sand and we've been trying to try and keep that line straight at the moment and it's been hampered by the fact that that regulatory impact statement wasn't done up-front. This is why our commitment to the COAG principles is so strongly put in the submission, because it requires that the regulatory impact statement be done so that the agencies understand the full scope of the impact, and this is particularly evident in the disinfectant area and in the handwash area which we've used as examples here, because while there was a need to look at the sterilants and instrument-grade disinfectants, by virtue of the microbiological definitions driving this we ended up going down into all of the household products that were simply trying to say "kills germs" not "disinfects".

So the scope of the legislation broadened enormously, and then that was evident at a domestic level, but it really wasn't even clear at the industrial and institutional level either in terms of those products that were being used in the workplace for cleaning hands, etcetera, that may say "kills germs". So there was no understanding of the ramifications of this, despite industry's protestations at the time.

**DR STEWARDSON:** I guess all I'm really saying is that we have to draw up some guidelines eventually. This question of appropriate assessment for risk I think is actually mentioned in the guidelines and it's certainly something that we recognise is an issue. If you've got anything that you want to say further to us that would help us with that bit of the guideline, we're happy to receive it.

**MR ANDERSON:** I hear your question and I think it's a good starting point. If somehow we can reassess our position versus the Europeans and the Americans and their inventory versus ours, as a good starting point I think it would be worthwhile, yes.

**MRS OWENS:** I think the other important thing we have to be thinking about for our guidance of course is the whole issue of cost recovery.

**MR ANDERSON:** Yes.

**MRS OWENS:** I think you have argued in the submission that you would support - well, you've said in your opening comments, Bronwyn, that you actually did accept that there should be some degree of cost recovery, but not full cost recovery. I suppose it really comes down to then - if it's not full cost recovery, how much should

be covered by industry and how much should be covered by government? What is the public-private split? Is it going to be different depending on the products that you're looking at? Is it different across regulators? What sort of criteria should we use to try and work that out? This is, I think, quite a challenging question.

**MS CAPANNA:** I think we need to look at the individual functions of the agencies, because I think that the private-public benefit will vary depending on the functionality within the individual agencies. I wish I did have an answer for you, but until that actual assessment is done I think it's very difficult to come up with a particular figure. I think you have to look at the activity base and look at the beneficiaries of that.

**MRS OWENS:** But suppose the beneficiary - you may have public benefits from introducing chemicals that are going to be safe or, you know, there's been an appropriate assessment and so on, but there may also be quite significant private benefits that we can get, or industry benefits, if you can get that product onto the market in Australia, and those industry benefits could actually exceed the actual cost of the regulation. So it's quite an interesting question of - - -

**MR ANDERSON:** And vice versa.

**MRS OWENS:** You've made that point I think already. But say the benefit to industry was quite significant, why not industry pay the full amount, even though there may be a public good element or public interest element in having that regulatory activity?

**MR ANDERSON:** I think the real question is to examine the efficiency of the agencies and the productivity of the - which is why we're here, I guess. When you look at - I don't want to sound like I'm beating up on NICNAS - that's my job today.

**MRS OWENS:** They're not here to defend themselves so you can say what you like or send them the transcript.

**MR ANDERSON:** That's right. If you look at the \$4 million that's been invested so far and the output for the \$4 million and just do a division per product, it's pretty high, pretty expensive. When we're running our companies we have to be terribly efficient and we've got to be at all times watching all of our costs and our expenses and being measured on an outcome. The outcome is missing in the measurement and I think that's what makes it difficult to determine what percent should industry pay; if it's inefficient, then probably none, you know.

**MRS OWENS:** We call this "gold plating". People have been saying that there are few incentives for the regulators to be efficient if they are able to just charge back to the industry.

**MR ANDERSON:** Yes.

**MRS OWENS:** There's less incentive for say the Department of Finance and

Administration to look over the shoulder of that agency if they know that they're out there just collecting the money from industry.

**MR ANDERSON:** Exactly.

**MRS OWENS:** But the theory is that if you're paying for something, then you should be able to have a reasonable say in how those activities are carried out, but maybe it's a bit more difficult when it's a monopoly that's doing it, and this is what the regulator is, a monopoly. You can't choose to go to the regulator down the street.

**MR ANDERSON:** Yes, if we had the option of perhaps - the point I was making earlier about being international, of having this assessed by Europe or the same body in the US or here, how would they stand?

**MRS OWENS:** They'd have to compete.

**MR ANDERSON:** They'd have to compete.

**MRS OWENS:** Yes.

**MR ANDERSON:** Both in terms of cost and time. I think that that could be an interesting way to approach it.

**MRS OWENS:** And I think the other issue is that a lot of the work that the regulators do - and particularly the TGA - they do in-house and there's very little contracting out.

**MR ANDERSON:** Yes.

**MRS OWENS:** I think you raised the question of maybe more of the assessment functions being contracted out.

**MS CAPANNA:** I think the other advantage of possibly contracting out also addresses the natural peaks and troughs in work with the regulatory authority at any one time and it allows the agencies - provided you can address the confidentiality concerns that industry will have in terms of contracting out, it would give the authorities, the agencies, an opportunity to minimise their fixed costs in terms of employment and actually be able to more efficiently utilise their assessors.

**DR STEWARDSON:** There is the capacity in Australia to contract out that assessment.

**MR ANDERSON:** I think aspects of each task could be subcontracted. There are bodies that do independent work for companies, so, yes.

**DR STEWARDSON:** Just to follow up the question just a minute ago, you said

that if industry is required to pay the agency's cost it should have the ability to influence the allocation of funds and prioritisation of activities.

**MR ANDERSON:** Yes.

**DR STEWARDSON:** Do you have any specific suggestions of what structure should be used to achieve this, just how industry should be able to input into the regulator without controlling the regulator, because obviously industry - - -

**MR ANDERSON:** Can't do that.

**DR STEWARDSON:** - - - can't do that or no longer is an independent regulator? With some regulators we know that there are consultative committees, and we get the impression from some of the consultative committees that they consider that their advice is not given appropriate weight, shall we say. How do you get the industry, the regulated, to have an effective input that you want it to have, particularly in respect of efficiency, without controlling the regulator?

**MR ANDERSON:** I think through bodies like ACSMA you can do that, where there's no - ACSMA is not a commercial organisation. It's a representative and not-for-profit group that can represent the broad industry and I think that's an appropriate way to influence the outcome that's being looked for, if you like, by the key stakeholders.

**DR STEWARDSON:** It seems, to an outsider, to be a somewhat protracted way. I mean, here you are, you're representing substantial companies, and a number of companies, and yet you're battling away for a number of years to achieve some change.

**MR ANDERSON:** I think again Australia has been probably less willing to involve the clients than perhaps they have been in other parts of the world.

**MS CAPANNA:** And I think there have been concerns about the hundred per cent cost recovery position or policy that will lead to a perception of capture by the agency, and so that has actually not facilitated consultation and rigorous discussion with the industry on the basis that if industry puts forward a proposition the regulators may foresee that they are being captured by a particular industry sector.

**MRS OWENS:** How do you overcome that, Bronwyn?

**MS CAPANNA:** I think one of the difficulties is you can have, for example, the existing structures of the TICC, various different acronyms, depending on whether you're dealing with the TGA or IGCC with NICNAS and the others, the consultative groups, within NRA as well, but they're limited insofar as they are operating within the constraints of the policy that they have been given and so when industry have raised issues at an IGCC level, if that is contrary to the perceived policy, for example, in not accepting the international status of products or chemical assessments, then it's

not possible for IGCC to move forward on that. So I think this is one of the advantages of something like a national chemical regulatory framework which could commit to those parameters that I was talking about, the public and workplace safety, environment, education and a viable industry, a mutual commitment to those four parameters, and have the same risk priority assessments being applied.

I think the other advantage of having a regulatory framework would be to give confidence to the various agencies that maybe they don't have to deal with that because somebody else is. That discussion doesn't take place very readily. I'm not talking about a single agency. I'm talking about a framework that would facilitate that level of discussion and policy setting that would have a greater opportunity to deliver the outcome than individual committees individually reviewing the NICNAS approach.

**MR ANDERSON:** You both raised the question from two different ends and it's meaty enough that we should spend a lot of time on it we haven't got, but it seems to me that to mature as an industry in Australia we need to develop this consultative approach not only from industry to an agency but agencies and industry, and that needs to be encouraged. The second thing is to encourage industry to want to willingly participate in that and the best way I can think of to achieve that is to let them have a few victories - you know, to have been seen to have actually influenced an outcome - and maybe publicise the heck out of it so that people say, "Okay, well, maybe it is worth my time to fly to Canberra and be here," or to whatever, because I think there's a notion that, "It doesn't matter what I say. It's not going to have any impact." I think we need to remove that myth and encourage more consultation.

**MS CAPANNA:** And dialogue.

**MR ANDERSON:** More dialogue, yes.

**MRS OWENS:** I think that's well said. I think we will actually have to move on but, Bronwyn, you just were going to make one comment.

**MS CAPANNA:** In terms of the issue of risk I just reiterate the fact that if you look at the COAG principles it's a process that forces you to go down a risk analysis and an assessment and if the COAG principles were adhered to in the various agencies, that gives you a consistent framework by which policy and risk and priority setting could be achieved consistently across the three agencies.

**MRS OWENS:** I think that's a really good place to finish it. Thank you very much for coming. We will now break for, I just think five minutes, and we will resume. So thank you.

**MR ANDERSON:** Thanks very much for the opportunity.

**MS CAPANNA:** Thank you for the opportunity.

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**MRS OWENS:** Our first participant this afternoon is the Council of Asia Pacific Express Carriers. Could you please give your name and your position with the council for the transcript.

**MR MULDOON:** It's Ken Muldoon, and secretary of CAPEC.

**MRS OWENS:** Thank you for coming and I apologise for the slight - well, it's not so slight, but the delay this afternoon. We did receive your submission and we were very pleased to get it and we did have time to read it, and perhaps not absorb it all but we have read it. I was wondering whether you would like to make any introductory comments, then we could ask you some questions.

**MR MULDOON:** Certainly. Thank you for having me. As I say, CAPEC represents the four major air express operators in Australia, the NDHL, Federal Express, UPS and TNT. In terms of cost recovery our main area of interaction is with customs cost recovery charges on the clearance of freight as it comes into Australia. I've reviewed the customs submission where it says there's about \$74 million collected in that area. I would estimate that the four companies here could take up maybe 30 per cent of that, where we actually pay the amounts on behalf of our clients and then recover from those clients, so we pay the moneys to customs. What we are after I suppose particularly is very much in alignment with much of what your review is about. We are after transparency, consistency, competitive neutrality in any cost recovery, and certainly just that sort of consistency so we know what we're dealing with and that it's applied uniformly.

I will just probably run through a couple of areas where we do have some minor concerns at the moment, and one is whether cost recovery itself should apply to trade, is to go on every entry of goods that comes into the country, commercial or private. When it was introduced back in 1997 there were two key elements to it: (1) to reduce the government deficit, and (2) was stated to align costs of processing with the particular body that was involved in that processing rather than spreading customs costs across the whole community.

Clearly with what has happened with the deficit over the past years, as our politicians like telling us, we don't have that deficit any more, so at least one of those legs that was used to introduce cost recovery in our field is removed. The other one about aligning processing costs to the particular sector I probably won't comment on too much. I will leave it up to industry itself, the importers and manufacturers, to give you their opinions on whether customs cost recovery on imports is a particularly good or bad thing.

One thing I will say, however, is that in our general concept of cost recovery we certainly look to the principle that has been espoused in a few submissions where the cost should be borne by the beneficiary of the service. That in itself I think in the import transaction field is an interesting one to try and come to grips with. For example, if you're importing some goods into this country, for the benefit of customs

assessing whether there's duties and taxes, and you pay your GST, you get the goods cleared. It's questionable as to whether you are a beneficiary of a service there. Certainly I would say in the collection of duties and taxes the Australian government is the beneficiary, and of the exact financial amount, and in terms of the duties, that in itself, probably the beneficiary of those duties is the Australian manufacturer who has a protection element from these tariffs.

So I think it could be argued that certainly the importer himself isn't a beneficiary of the service, rather, the customs processing of entries is something thrust upon him, mandated by government, and equally the collection of GST now on imports is mandated by government. Again, just probably going on to that one, and it's an example I used in the submission, if you have no duties in fact to be levelled the only thing that is collected is GST, so you have a customs entry that's being processed to collect GST for you to pay to the government, and for that dubious pleasure you get to pay the government probably somewhere between 20 and 35 dollars cost recovery charges, which I'm sure if any of us are filling in our tax returns the concept of the government assessing that, if we had to pay for that - we wouldn't be impressed. So I think there's a bit of a question about who actually benefits from customs processing charges on entries.

The other one that particularly concerns our industry is a bit of a lack of consistency in that customs cost recovery charges when they were introduced were said to apply solely to commercial transactions and not for community protection issues. Unfortunately the \$22 or so that government openly collects has additional charges on top. There's the cargo automation development fund, there's AQIS charges, there's cargo reporting levies and there's trade gate levies. It comes up to about \$35 per commercial entry you're dealing with through our industry. But built into that you have the concept of customs looking at commercial activities but then you have an extra element which is quarantine charges.

We would certainly see quarantine screening of goods coming into this country surely as a community protection issue. So we have a customs element which is said to look at commercial aspects of it only, and excluding any drug interdiction issues, but then we have built into it also a quarantine charge, and it's just something where we're looking at the inconsistencies in the current application. Following on from that is the issue of document consignments. We have an unusual situation where if you send a letter into Australia there is actually an element of the customs cost recovery charge in that, and we would say personal documents or even bank documents have zero commercial value. The only screening that customs, we believe, would be doing on those would be to see if any of the names or addresses happened to come up with some of their profiles for community protection issues.

So they are the two key areas. Is it community protection, should it be for commercial - and I suppose that's one thing. It's not up to us whether the government should be collecting money on community protection issues. It's just at the moment the way we deal with government's single window is through customs, information windows, but within that single window there's already split levels. Quarantine is

community protection. We believe the collection on documents is community protection, yet most of the other customs elements we recognise as commercial. A side issue on that one is competitive neutrality. It's an issue that has already been addressed by the Commonwealth Competitive Neutrality Complaints Office, the fact that Australia Post doesn't pay customs cost recovery charges, and there was a CCNCO report issued only a few months ago where it suggested to the government that it should at least assess how Australia Post might pay those fees, or at least recognise those fees and then see if the government happens to write them off.

Just going through the other areas of the submission, export-related activities, there have been some areas where the government has recognised that goods that are imported into the country and then later exported is actually beneficial, particularly where there's value-add services. They've taken a step of removing cost recovery charges on goods that enter into a scheme called the Manufacturing In Bond environment, and are then later exported. They haven't done the same with probably a much larger scheme than that, and that's Tradex, and that's where goods come in further processed for export. Specifically to enter into those Tradex arrangements you have to say that the goods are destined for export, so probably it's a bit of a personal view there, that if they're going to be exported - if you've removed cost recovery from MIB, it should similarly be removed from Tradex.

The other one is some administrative concerns. It goes back to who is the beneficiary on a customs entry. At the moment, as I say, if you're importing goods through us it's actually a figure of around \$35 per entry that you pay. We question who the beneficiary is there. We also question the sense in trying to recover some of those small amounts. On a \$35 one, that might be okay, but there's also another area where if you import goods that are below the customs entry threshold, it's only a figure of \$2.40. Rather than levying that on the particular person importing the goods, they levy that on the cargo handler, so I presume the logic of that is that they can't get those small amounts, so let the cargo handler try and collect it. Fortunately for our industry, they did come up with an arrangement which effectively sees us putting a surcharge on formal entry so that we don't have to try and collect that. There is a concern that that arrangement could be removed and we would certainly hope that that doesn't happen.

At the moment, I can speak. While I'm the secretary of CAPEC, I'm also a customs affairs manager with DHL and I can say that even under current arrangements, we write off at least between 3 and 4 thousand dollars a month just on customs charges that we can't recover from clients. Certainly that's only a small amount, but our company, I think, would be collecting in the order of 8.4 million in customs costs recovery charges per annum. Just on that administrative limitation, we would hope to see that if there are customs costs recovery charges that there is a minimum collection threshold and that that's applied to whoever the beneficiary is and not passed on to another intermediary who can then try and collect this on behalf of the government, and we'd like to see some risk management in that.

We note that the Australian Customs Service itself has a minimum



\$50 collection threshold. If the duty and taxes are less than \$50, they won't collect it, yet it's passed on to us to try and collect amounts like \$2.40 or even \$35. The only other miscellaneous area is refunds of customs duties. Currently, there is a fee for the refund of a customs duty if you have overpaid. We believe that's inappropriate, but fortunately it's already been indicated that customs next year will probably remove that fee. The only other last miscellaneous one is depot licensing fees. To actually process anyone's cargo coming into the country, we have to licence a particular area for the goods to come in, be deconsolidated and then distributed, and we have to pay a licence fee for that.

So again it's another mandatory requirement that we have to have this facility. It's to ensure customs control and there are some pretty hefty annual licensing fees for it. My personal belief is potentially yes, the first time, for customs to do a security check of the people and of the systems, but the \$4000 etcetera per year fees we wouldn't think is appropriate, so in summary, they're a couple of the areas where we have concerns, but mostly what we'd just be after is some clear definitions of what areas of customs processing would have cost recovery charges applied and ensure that they are applied consistently across all players in the market, including Australia Post, competitive neutrality and that there is some commercial reality built into the collection mechanisms.

**MRS OWENS:** I think that was very clearly stated. Can I just clarify. Would you like to see all customs fees and the AQIS fees abolished or are you reasonably okay about having some sort of charging arrangement?

**MR MULDOON:** If the government decides that there is a charging arrangement and that charge should be borne by the importer and it's implemented in a way where we acting as their agent can effectively pay that money up-front and then recover the money from the importer, we're happy. The problem with our industry is that we don't have the benefit of going to get the money from the customer before we clear the goods. The whole concept of our industry is you overnight service or within a couple of days internationally. The only way we can do that is by preclearing the goods and prepaying duties, taxes and any charges, so in fact we act as an agent to the importer, pay the moneys up-front and then collect them back. Ideally, we would see them removed because it's only a financial risk to us, but that's only on that pure business level. If the government does apply them, we'd like to ensure that they're applied in a manner where we can continue our business and minimise our exposure to revenue risk.

**MRS OWENS:** So in terms of your own company, how much would you be prepaying each year and how much don't you ever get back from your customers? What is the degree of financial risk?

**MR MULDOON:** As I say, just on customs cost recovery charges, on the \$35 per entry, it's around 3 to 4 thousand dollar per month.

**MRS OWENS:** That's overall? Is that a total amount?

**MR MULDOON:** Yes, that's per month that we lose just on cost recovery. If you look at it, we also prepay any duties and taxes. I'd have to do some research on exactly what the amounts are.

**DR STEWARDSON:** Is that 3000 what you don't get back from your clients?

**MR MULDOON:** For just customs cost recovery charges.

**MRS OWENS:** So you're losing about \$36,000 a year and you just don't recoup that, and you lose that plus the other things you don't get back.

**MR MULDOON:** If we pay duty and taxes - our view is we will deliver goods. If the duty, taxes and cost recovery charges are less than \$300, we will certainly deliver those goods before we even try and recover them, so there's significant exposure there, but that's the nature of our business as an express delivery service.

**MRS OWENS:** At the moment, there are customs fees on imports, but not on exports, and we've had another participant - that was actually Martin Feil, who you probably know. He was saying there's an inconsistency there if you're going to charge for the work that's done on imports, there is also a significant amount of work undertaken in relation to processing exports, so it's inconsistent. We didn't actually follow through with him to see whether he wanted the import charges abolished or a charge raised on exports. I think it would probably be the former, but have you got any comments to make about that?

**MR MULDOON:** I think when customs costs recovery charges were introduced, as I say, one of the prime reasons was the reduction in the deficit and it was seen that any exports out of Australia were improving our wellbeing and probably helping in the removal of that deficit, so therefore they shouldn't impose additional charges on them. Again, that's just going back to the wording of the second reading speech when it was introduced, that was the logic. Certainly my belief, if we want to keep Australia competitive in the export markets - I'm not an economist by any means, but if we want to maximise our ability to compete in international markets, then we should be minimising the costs that have to be borne by our export industries. In that sense, anything that's exported I think it's sensible that we don't have cost recovery charges on, that it is a community benefit; and equally I believe that if those companies are importing goods that are then consumed, further manufactured and exported, similarly I would think that that should apply, that there shouldn't even be cost recovery on those imports.

**MRS OWENS:** Do you think that for imports there may be some private benefits from companies importing? I mean, they're not going to import unless they get some benefit out of that process, are they, and presumably from the Australian customer?

**MR MULDOON:** Any business that exists is looking for some benefit, but if the Australian government has a clear goal of increasing our export trade and making our

manufacturing industry more competitive on a global field, I think that the removal of those charges is certainly warranted. You only have to look at the success of some of the free-trade zones around Asia.

**MRS OWENS:** But there are not charges at the moment - this is exports.

**MR MULDOON:** On exports there are no charges. There are only charges on imports, which are subsequently exported in most instances at the moment. My belief, just a general trading belief, is that if I'm importing goods, further manufacturing and then exporting them, why should I even have to bear the cost recovery on the import?

**DR STEWARDSON:** I was trying to think about the beneficiaries and you were rather lumping AQIS charges and ACS charges, fees, together.

**MR MULDOON:** I lump them together because they're paid together. On any customs entry, when you enter the goods, it's not optional. You don't go and make a quarantine entry and a customs entry, you make a single entry that clears the goods and there are customs charges, quarantine charges and other charges.

**DR STEWARDSON:** I understand, but you were lumping them together in the sense of saying that the importer, from your point of view - hopefully the importer, rather than the forwarder - paid them and you were querying whether the importer actually got any benefit from this. In terms of the ACS and the collecting of GST, you're making out quite a good case. In terms of AQIS, I was wondering whether, while it's true that it's protecting public health, is there not also a benefit to the importer that the public can assume that the product has been okayed?

**MR MULDOON:** I think if you're talking about fumigation charges and things like that, if you talk about a charge for a particular service to clear the goods, to treat specific goods, that's a different argument. Just on any entry that comes through, if you import an orange book or an orange pencil case, if a kid does that, that will come up on an AQIS screening for the term "orange". I question whether that is appropriate. It's on every entry there's a dollar charge and I think it's on those consistent ones where you can have some low-risk material, you know, the computers that come in, etcetera, there is also a dollar applied to them - I think it would be a different argument if you were talking about individual treatment charges for quarantine, so yes, personally, I see that screening charge, that mandated compulsory screen charge, is a community protection issue.

**DR STEWARDSON:** You've presumably raised this matter with customs in your official capacity. What sort of response do you get?

**MR MULDOON:** Limited, and that's probably where I think one of the main things we'd like to see are some clear guidelines on what issues - on border transactions, what elements should be subject to cost recovery regimes and some transparency in the application. Each of those charges were applied separately. Quarantine was given the task of recovering money, it did it a certain way. Customs was given the task of

recovering money. To try and get those things brought together is very difficult. And it's also very difficult when you try and argue post the event of their introduction because you go back and the only things to call on are things like secondary speeches, which aren't always clear on what the intent was or even then, if there was an intent, how clear it was.

**DR STEWARDSON:** What happens elsewhere in the world ?

**MR MULDOON:** Elsewhere in the world there's not many places that do have cost recovery charges on entries. I was looking through the customs submission itself and probably the interesting one there is the US, that does have it, but it has a minimum collection and a maximum collection threshold. Other than that I think there's Japan that has limited - there's probably only half a dozen countries in the world.

**DR STEWARDSON:** That have a fee for customs. I see.

**MR MULDOON:** Certainly in our region none.

**DR STEWARDSON:** And Europe?

**MR MULDOON:** Europe doesn't.

**DR STEWARDSON:** Presumably not internally, but externally it doesn't?

**MR MULDOON:** Europe doesn't, and its member countries cannot.

**DR STEWARDSON:** No, I would understand within, but the external - - -

**MR MULDOON:** No, I'm saying none of its member countries can impose cost recovery charges on the processing of entries as I understand it. So it's an unusual one that Australia has.

**DR STEWARDSON:** And in Europe does customs levy the - what's the GST called in Europe?

**MR MULDOON:** The VAT.

**DR STEWARDSON:** The VAT, yes - does customs have that task in Europe?

**MR MULDOON:** No. It can vary country by country. I know in some countries yes, others no. Sometimes it's down to a financial at the taxing office, other times it is customs that can collect it.

**MRS OWENS:** You made an interesting suggestion that you said that initially one of the rationales for introducing cost recovery was to reduce the budget deficit, so it's a revenue-raising rationale, and you're saying, "Well, now that we don't have a deficit

we don't really need to cost recover," and I suppose you could turn around and say, "Well, the next time we do have a deficit would we bring the charges back?" I mean, I do have some difficulty actually accepting the deficit argument as an appropriate rationale for cost recovery. I think we need to think more clearly, we as economists, about the appropriate rationale, and I think just government revenue-raising devices probably doesn't feature large in our thinking.

**DR STEWARDSON:** I agree with that. I mean, equally you could turn your argument around and say if you did abolish the charges you'd get the deficit back.

**MRS OWENS:** Yes. I suppose it depends what else is going on.

**MR MULDOON:** Sure. A bit hard to say.

**MRS OWENS:** Yes. It may reduce the surplus.

**MR MULDOON:** That's why I - you know, all I was bringing to light was clearly when it was introduced it was given as two prime reasons. One of those doesn't exist any more. And probably all I'm saying there is it's time to probably start to question again, okay? If we don't want to apply it to exports because it's generating revenue into the country do we want to apply it on import-export trade at all? Do we really want to apply cost-recovery charges on cross-border transactions? Is the Customs Service collecting revenue for the government and providing an industry-protection mechanism through tariffs, and should that be borne by the importer? Should the cost of doing that be borne by the importer?

**MRS OWENS:** Yes.

**MR MULDOON:** As I say, I would see that the revenue is into the government kitty, the beneficiaries are the Australian government, the beneficiary of tariff is the Australian industry.

**DR STEWARDSON:** I think it's a good question you've raised for us.

**MRS OWENS:** Can I just clarify the community protection function that you refer to, you know, in terms of the interception of prohibited imports and drugs? That's not covered in the charging, is it?

**MR MULDOON:** No.

**MRS OWENS:** No.

**MR MULDOON:** That's exactly the anomaly that I'm saying.

**MRS OWENS:** Yes.

**MR MULDOON:** When customs look at it they try and recover only what they view as commercial screening charges and exclude any work done on drug interdiction or prohibited and restricted imports. Yet then you have this quarantine charge, which we view purely as community protection.

**MRS OWENS:** I think that's fine. Thank you very much for coming, and thank you for the submission. We will now break just for two minutes.

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**MRS OWENS:** We will now resume. The last participant today is the Department of Finance and Administration. Welcome, and could you each please give your name and positions with the department for the transcript?

**MR KERWIN:** Okay. Jim Kerwin, branch manager.

**MR BRINE:** Matthew Brine, budget officer.

**MR CLOUT:** Jamie Clout, branch manager.

**MRS OWENS:** Thank you, and thank you for the submission. I understand you would like to run through the executive summary briefly, and we'll then ask you some questions.

**MR KERWIN:** Okay. Thank you very much. I thought I might just take the opportunity to go through the executive summary fairly quickly because it establishes a certain framework, and the intention of being here today is to provide some views in regard to the guidelines and framework that might come out of this inquiry. Just by way of approach there are a number of dot points on the executive summary and I'll just move through those one by one. They do tend to flow into one another so there's a story that develops as you move towards the end.

One of the first things that we'd probably like to put on the record is that in viewing cost recovery we would be of the view that revenue raising is not of itself a sufficient condition, and one of the things that we would like to have considered apart from the revenue flows that might come out of it and probably more importantly than that, where the revenue becomes residual, are the notions of efficiency and effectiveness. In relation to efficiency we would consider that where there is a cost recovery occurring there is a buyer of something or other and there are opportunities for scrutiny of the amount that is being charged, and that goes to the question of how cost efficient is the particular service or whatever it happens to be.

From an economics point of view we are also interested in allocated efficiency, and where there is some level of pricing for a resource that is going to be used the presence of a price will stop levels of demand that might otherwise exist. In relation to effectiveness we are interested in - bearing in mind that there is some level of price, even though it is a price recovery - effectiveness goes to the question of what is it that the government is involved in at the moment, and within a framework that talks about contestability - which I'll mention later on - that's a reasonably important consideration.

Just to put cost recovery within a framework itself, it's probably a subset of what generally is called in the public service user charging and there can be a variety of principles that come around that that might through a range deliver market prices or surrogates of market prices for user charging. It might even just go to recovery of variable costs under certain conditions, or it may in fact simply be a nominal amount.

So there are a variety of philosophical bases on which user charging and cost recovery might in fact occur. But sitting at the background of it, from our perspective, is there are opportunities to leverage cost efficiency, there are opportunities to expose a price for something and therefore allocated efficiency, and the question of effectiveness. Could somebody else buy this at a lesser price with the same level of quality from somebody else apart from government?

One of the things we'd like to also mention is that user charging should not necessarily be based or should not be based on agency costs. As a general rule it would be ideal to try and have it mirroring market-type prices. While this can't always be the case, if there are surrogates that at the end of the day cause behaviours in purchasers of things which are moving in the right direction, that would be a much better behaviour than simply having something as a free good or being totally underpriced.

Cost recovery in terms of public goods and private goods: it would be our view that cost recovery should be limited to situations where it applies and is to what is exclusively or predominantly private benefits, meaning that the benefit for whatever is obtained can be traced relatively easily to an individual or some other entity or some other corporate entity. It's not something that is shared by the community like a park, for instance, where people who enter the park can get the benefit from the walk through it and the smell of the rose. But it is something that particularly can be attributed to something fairly tangible. Therefore there can be exclusions around it as well. The delivery of a private benefit is contestable, so if you are able to charge a price to a particular individual or entity there is the question then of contestability and we would propose that that sort of transaction is a contestable transaction.

**DR STEWARDSON:** Can I just interrupt here?

**MR KERWIN:** Yes, you can.

**DR STEWARDSON:** Is your emphasis there on the delivery or on the whole good, the whole private good?

**MR KERWIN:** If it's service for instance, or if it happens to be a product, it would be making whatever it is available. It's not on the distribution side of something or other. It's actually making the thing available to a party who will pay some sort of price, if I've understood your question properly.

**DR STEWARDSON:** Okay. So like in the case of the ABS they produce a whole lot of stuff and then they print it off and sell it to people. It's the printing off and selling it to people bit that you're saying should be contestable.

**MR KERWIN:** Yes.

**MRS OWENS:** But it's not always contestable, is it? There may be some instances where a monopoly could be providing private benefits.



**MR KERWIN:** Absolutely. I mean, that is possible. In terms of contestability it does introduce the market perspective to it, even though in instances the market might be fairly small. But I mean it's a political question at the end of the day how far down the track you go on contestability versus monopoly supplier.

**DR STEWARDSON:** So what you're saying is ideally it should be contestable. You're not saying as a matter of definition it is.

**MR KERWIN:** No.

**DR STEWARDSON:** Okay. Thank you. I understand.

**MR KERWIN:** Yes.

**DR STEWARDSON:** Sorry I interrupted.

**MR KERWIN:** Yes.

**MRS OWENS:** I suppose it comes back to - you could have private benefits from regulation as well - - -

**MR KERWIN:** Yes, you can.

**MRS OWENS:** - - - where the regulator - - -

**MR KERWIN:** Yes.

**MRS OWENS:** There may only be one regulator and there might only ever be one regulator.

**MR KERWIN:** Absolutely, yes.

**MRS OWENS:** Some of their activities could be contestable but not the actual regulator.

**MR KERWIN:** Yes. I agree with that. Yes, that's right.

**MRS OWENS:** Although now that we've got a global market you could have some degree of contestability in terms of mutual recognition or whatever.

**MR KERWIN:** Yes. And just moving on to regulation, which is the next dot point, the question of regulation is one in which, in terms of the regulation existing, the proposal that's here is that a regulation should exist if the benefit to the community from the regulation - and this is a domain-type question: "How big is this particular community?" - is significant and reasonably immediate in its delivery. So there needs

to be, we would believe, some consideration of what are the ramifications of this, and not only that, but as it goes out in time that there is some pattern of review to ensure that the benefit of the regulation remains in time.

What we would see would be that in terms of some of the current framework that exists there is a thing called the portfolio budget statement which public sector businesses complete and which is part of the budgetary process every year. It does have in it measures of outcomes and outputs and costs associated with those things. We're suggesting that there could be a possibility to think through also including in there some sort of recognition that where there is significant cost recovery for instance there is also some examination of the questions of efficiency and effectiveness and some measures identified for those.

And then in subsequent times, particularly at the end of the annual period, the annual report, along with disclosing other elements of the portfolio budget statement targets and the actual position, would also do the same thing for these cost recovery areas. Our cost recovery is very diverse of course, so this is a question that would need to be looked at with the test of the detail to see how practical it might be.

In terms of the role of the Department of Finance perhaps around this issue, the Department of Finance reviews all what are called new policy proposals as they come forward and provides an assurance to the cabinet, or the cabinet particularly, and to our minister or through our minister of certain things around these proposals that could also extend to the efficiency and effectiveness-type considerations of these cost recovery-type issues. That's probably all the comments I'd wish to make at this stage.

**MRS OWENS:** Thank you. As you know, Jim, we have to develop some guidelines and I think when I initially got this inquiry I think the initial question I asked myself is, "Why are we developing cost recovery guidelines now? Why aren't there such guidelines in place?" Now, I know that there are various documents that have been put out by your department over the years. There's the 1996 guide to commercialisation, then there was the guidelines for the costing of government activities that was produced back in 1991. But looking at those documents, they probably don't go far enough, if you understand my gist. I mean, one of those documents, the earlier one, focuses more on defining costs and what costs should be measured and so on but doesn't actually step back one step and say in what circumstances should cost recovery take place and what's the rationale for doing so.

It's interesting that we don't have guidelines that tackle the more difficult questions, because I think what has really struck me - and probably Robin and Judith, who's not here today - is just the diverse range of cost recovery activities that are going on in Australia, and there's quite a lot of inconsistency, I think quite a lot of confusion as to the underlying rationale. Participants have come and said - you ask why they're doing it and they say, "Oh, it's government policy," then you try and establish where that government policy is written down, and there's very little written down.

**MR KERWIN:** Yes.

**MRS OWENS:** So I'd just like to understand from you what has held us back from developing a more complete set of guidelines before now. Even New Zealand has got some guidelines. I don't necessarily totally agree with what's in them but at least they've had a bit of a go at it.

**MR KERWIN:** If I was to make a comment on that, I think it really is a question that in recent years the nature of what we might call financial management in the Australian public service has changed and the role of the Department of Finance has also changed within that. If we went back to 1991 I would guess that the Department of Finance was probably more prescriptive in terms of how it sought to see things done, so it might produce guidelines down to what might almost be the rule stage, so the view was more down at a transaction level almost in order to regulate behaviour.

If we come to our current point in time, we've actually already moved down a continuum - and New Zealand has been moving down this for about 10 years now; I think it is 10 years last August that they changed their framework as well - and what we have at this point in time is practices, skill systems, structures coming into being across the Australian public service which are able, I would think, with guidelines of a different nature to work within accountabilities and governance frameworks to produce the sort of result that might be desired in relation to something say like cost recovery.

In that world, the Department of Finance I think does have a role. I would think the role, however, is not down to the prescriptive stage but down to the principles stage, and it would be those principles within that framework, which as I said is evolving - and I think there's good evidence of it evolving - it's most likely to work. It wouldn't have worked in a framework from a previous time, and I think evidence from more than just this jurisdiction of government jurisdiction is that the world of regulation does not work with complexity uncertainty. You really do need to put accountability frameworks and governance practices around that and then put up the boundaries within which people might operate, and that's the sort of direction that certainly the Department of Finance has been moving in over the last few years.

**MRS OWENS:** So it's really we had to get to a certain stage in terms of our general environment and it's a timing issue. So are you saying that moving down this track involves accrual accounting, output based budgeting and a whole lot of other factors that have come together and they're all really complementing each other?

**MR KERWIN:** Yes, they are. It's involved the legal framework as well. The legal framework now is very different to the legal framework previously. This is something that I certainly know in some states and even in local government. This is a similar thing that has changed in those jurisdictions as well. I mean, it's a reflection of the nature of management, I think, at this part of our new century and the last part of the other one.

**DR STEWARDSON:** Can I take you to some of the comments you made about efficiency and so on. We've had various agencies saying to us that the requirement that they cost recover a certain percentage, 30 per cent or whatever, works against the efficiency, or the effectiveness perhaps may be the - or both, with which they can deliver the service and the aims that they are supposed to be giving effect to, and one particular example I think was AGSO, the geological office, which felt that the requirement to cost recover 30 per cent worked against the policy objective of making its information available, particularly to small explorers, so that they would be encouraged to go ahead and do their exploration and so on. Do you have any comment on the reconciliation of that rather blanket sort of prescription for 30 per cent with the way they effectively do their job?

**MR KERWIN:** Probably what it signals - and just using that as more a hypothetical view of say having a rule that said 30 per cent - I think it's a reality that that is the case for that organisation. Perhaps the motivation in that was to expose the management of that organisation to external demands for their services and to be competitive in that sort of environment. In the final analysis, I think there's a whole lot of dynamics that probably come to play around the tensions that probably arise because of that. Those dynamics will probably go the nature of the things that they do. Some of those things may put pressure on the question of why they exist in terms of the public good perspective, and probably what is required within the Australian public service business generally is capability to pick up on those sort of things and to make the changes that are needed in the dynamics as the world goes on.

There's a whole lot of dynamics occurring in the business community, of which the Australian public service is part, and some of those dynamics nowadays lead us into behaviours which a few years ago we would have never ever considered, and this might be just another example of that, meaning that there could be a private sector provider of some of the services that in fact exist in an organisation that might have those sorts of stresses on them.

**DR STEWARDSON:** If that sort of development happened, then the public sector, the existing public sector body, would presumably then achieve even less of its target in cost recovery. Are you saying it would retreat from certain areas?

**MR KERWIN:** It could do. One of the dynamics from my point of view that's happening in the community at the moment is - I mean, not that many years ago for instance you would never have thought of private sector run gaols, you would have never thought of security services to the extent that they exist nowadays, you would have never thought of electricity supply even or water supply being in the hands of people who are shareholders. We probably live in a community and a society not being driven by ideology but being driven by just dynamics of what is going on. You know, productivity requirements on the investment of capital for instance, productivity on labour, will cause people to look for opportunities for instance.

**DR STEWARDSON:** You're sort of, as it were, justifying an arbitrary percentage in terms of the fact that it might stimulate the agency in question to think fairly hard

about its activities, and I imagine that in practice arbitrary percentages may have originally been introduced perhaps in the earlier days of cost recovery when it was all rather newer. Given where we are now and given what you've been rightly saying about efficiency, using cost recovery for efficiency and so on, would you see arbitrary percentages as in fact a desirable way of going still?

**MR KERWIN:** Personally I probably wouldn't, but I would see limitations and boundaries as being desirable. Within the context of managers with the capability to understand what is happening around them in relation to whatever the limitation is, there would probably be a need for some mechanism to be able to respond to what was happening within a market sense. For instance, the question of an arbitrary percentage on say totals sales for whatever it is, all those revenue streams, introduces the organisation to fee-paying clients who will have expectations about delivery times, quality of service, assurances, warranties, and a whole range of behaviours that may not otherwise exist.

Now, there may be a premium that needs to be paid in one sense in terms of the figure firstly being arbitrary and the degree to which it's rigid in order to bring those sort of expectations into the organisation. I think that could be the motivator that sits around some of these things, but an arbitrary value and a fixed arbitrary value has its inherent problems as well.

**MRS OWENS:** We've been hearing about the inherent problems not just in this inquiry but in other inquiries - for example, that the cost recovery targets at the CSIRO actually drive a lot more than 30 per cent of the organisation - and there is a potential, isn't there, to jeopardise or undermine some of the public good elements of what the organisation is meant to be on about, the *raison d'être* for the organisation, which is something we have to be really careful about, because it's all very well to say, "Well, there are certain things that organisation could be doing better and more efficiently, and in fact doing some of this other work could actually feed back and actually assist in making the public good part of that organisation work more efficiently and effectively as well," but if the focus of management becomes increasingly of going out there and attracting revenue and not on actually doing what it was actually set up to do, there is a real danger that we as a community could lose something, isn't there?

**MR KERWIN:** It's a possibility. There's a variety of ways in which things could get lost. The market may not lead research down a particular path, for instance. The other thing that might be lost - and probably more immediately and perhaps more obviously - is that the sort of manager that the APS would be looking to have in charge of these very large organisations may in fact be a person who is a hundred per cent in tune to what's going on and could manage any large business.

That sort of person needs the opportunity to say what is very reasonable to some body which is able to change the rules or do something like that, because they don't have the benefit or luxury of a market, they have a rigid bureaucracy perhaps, which stops them doing the sorts of things they're really being asked to do, so that's

why I was saying before I don't know the mechanism, but there is a leveraging of behaviour, but there is also - and I called it a "premium" - there is also a consequence of the rigidity and the arbitrary nature of some of the measures perhaps that will cause problems to a very good manager.

**MR BRINE:** Could I just add there, one of the things we'd be keen to see is an agency advice, you know, these ministers making well-informed decisions, so when these cost recovery proposals are brought to them there is a discussion of not only the efficiency implications, but also the effectiveness and transparency implications and the equity implications of imposing this regime, so that they may decide to implement a cost recovery regime which has perhaps a deleterious effect on the agency's effectiveness, but I mean if they've made that decision aware of those factors, then it's probably not a problem from our perspective, as long as ministers are making an informed decision.

**MRS OWENS:** So long as they're fully informed and it's a transparent process. I think it's actually worthwhile going through these sorts of processes in all agencies. I mean, I do think that it is worthwhile and it is worthwhile asking in some cases why they should continue to do certain functions at all. I think that's also worthwhile and you wouldn't have competitive neutrality problems if the agencies weren't doing some things that probably could be spun off. But we talked to the Bureau of Meteorology, for example, and they do have a stand-alone commercial unit doing their private work and they were saying to us that they've got about 30 competitors in this particular market and the obvious question is how long are they going to continue to do this? But they saw that what they were doing by setting up this commercial unit - it seeded the rest of the market, it got it going and it gave others an opportunity to come in and it has built it up, so eventually they said that they will ease out of those functions. I don't know when that's going to take place, by the way.

**MR KERWIN:** I think that might be a developing behaviour. I think government has the capability like statistical collection, for instance, in providing assurances around that and even producing reports. Certainly in the UK, there are entrepreneurs who through the Internet make a whole range of information available that they have collected from government, so if you, for instance, go to live in London and in a particular area, you can find out the nature of the homes that are there, the proximity of schools, the nature of the schools, the proximity of churches, etcetera. There's a whole variety of information that somebody, the entrepreneur, has pulled together out of publicly available information, which was never produced for that particular purpose, but which people are quite prepared to purchase, and it's that activity, it's that ability to see a market and to fulfil it, that I think will probably emerge more and more and take up government initiatives and then they come within the prospect of market behaviour.

**MRS OWENS:** There is an issue, I think, within organisations - and it's an access issue - the internal unit that's using say the bureau's information, they say that that unit is actually paying for that information and they're happy to pay market rates, the same as any outside company is having to pay, but it really sets up a very interesting set of

issues relating to access to information and access pricing when the provider of those services or that data or whatever is a monopoly provider and the incentives that that involves. I don't know whether you've ever thought of it like that, but we're doing another inquiry on access, so we're just thinking about the same issues in that inquiry.

**MR KERWIN:** I think there is a whole lot of dynamics emerging that we don't particularly understand yet, say around information and the value of it, and there will be businesses, probably, that will arise out of that that we just don't particularly understand at this point in time. I'd probably make the comment that years ago when, for instance, information started to be charged for, I was working in a different organisation at that stage and as soon as I started seeing an invoice come through the door, there were a whole lot of publications cancelled because they just weren't demanded at any price, so there was an appropriate response, I think, to that. But it's a question of what is the information that people particularly need.

**DR STEWARDSON:** Can we turn to another matter. I think that, as I understand it, we've got a situation where financial management is being pushed down the bureaucracy a bit to the individual organisations, agencies, and so we've got these agencies to an extent doing their own thing and some of them mandated to 100 per cent cost recover, things like the TGA and so on - Therapeutic Goods Authority - and we've had a lot of comment from people making submissions that if industry is paying 100 per cent of the cost of an agency, then it ought to have some input into being sure that the agency is doing its thing efficiently and there's usually a good deal of comment that they think the agencies that they're talking about aren't doing their thing efficiently and that they ought to have some say in it.

There seems to be clearly a problem. How do you allow the people who are being regulated to satisfy, I think, a legitimate interest that it be done efficiently, to satisfy themselves that it's being efficiently done? They can probably have some useful contribution to make in that area and let their views be taken notice of - and they tend to imply that very often they're largely ignored - without at the same time them controlling the agency, which clearly would be counterproductive for an independent regulator. I'd be interested in any general views you had as to how that could happen and I'd be interested in your reaction to a specific possible solution to the problem, see whether you think this might work or it's got some seeds to working; that is that one formed, in respect of each of these agencies, something that might perhaps be called an efficiency audit committee.

It would be a bit like an audit committee of a private company board, except that whereas an audit committee deals with financial matters, this would deal with a broader range of things to do with efficiency and it would have, probably, legislative authority that it should be provided with a certain reasonable amount of information to do with costs and operations to allow it to do its job sensibly and to review the efficiency and maybe it would be made up, say, of half members from the regulated industry and perhaps a quarter of the ultimate customers of whatever the product is and a quarter from the agency, perhaps, and maybe an independent paid chairman or maybe not, and that having done its reviews, it would then report to whoever - not to

the head of the agency, it would give him a copy of course, but it would basically report to whoever ultimately controlled the agency, probably the relevant minister.

The minister would have the power to tell the agency to do whatever had been recommended, but he also would have the discretion, of course, to not accept the recommendation, so this might perhaps be a way of giving some effective commentary, and useful commentary, from the people who are being regulated, without giving them any control over the regulated agency. Do you have any comment on that?

**MR KERWIN:** In terms of what exists at the moment, under the Financial Management Accountability Act - and I think Jamie will probably talk about that - there is section 44, which requires chief executives to be efficient, effective and ethical in their behaviour. In terms of frameworks that already exist, there is a thing called an audit committee that exists at this point in time within agencies and they're required to have them.

**DR STEWARDSON:** Each agency?

**MR KERWIN:** Yes.

**DR STEWARDSON:** An internal audit committee?

**MR KERWIN:** An audit committee, it's called, yes.

**DR STEWARDSON:** And its members?

**MR KERWIN:** Its members can be externals and a number of them do have externals, but ideally it would be like an audit committee of a listed company.

**DR STEWARDSON:** Who appoints the committee?

**MR KERWIN:** The chief executive would appoint the committee and in the case of the audit committee, the audit committee reports to the chief executive.

**MR CLOUT:** In the normal course, they would be appointed by the CEO. There may be exceptions, but I'm not aware of any.

**DR STEWARDSON:** Thank you. Sorry, go on.

**MR KERWIN:** So there is a framework similar to that already in existence. I'm not saying it would do that job, I'm just saying that it shouldn't be unusual for - - -

**DR STEWARDSON:** It would actually be quite different - what I was putting.

**MR KERWIN:** In terms of the comment that I would make - and personally what I



would make in terms of what you said - I think, once again, one size won't necessarily fit all, but that facility probably would be quite useful in certain circumstances. I'm not too sure what they are, but I would think in the nature of a large regulator, it would probably apply. In the case of regulation which is of a minor instance and bearing in mind the other things I said about the regulatory impact being pretty immediate and significant, maybe under that policy direction or guideline, there may be less regulation going out into the future. But for a regulator that has a large impact on the community, I would suspect the framework that you talk about would help to leverage whether there is efficiency and a number of other things; you know, what are the community benefits continuing from this, for instance, so I'd pull that into the equation as well.

The report to the minister, yes, that's perfectly all right. There's an accountability relationship between the chief executive officer and the minister, but the only thing I would say about it would be once again that it was given as an option. I'm not too sure who would exercise it, but it would be given as an option to apply and then in the cases where there were only relatively only minor regulation or no real concerns, it would not apply in those cases.

**DR STEWARDSON:** Yes, one wouldn't want to have something where the possibility for it to perform useful functions really wasn't there.

**MR KERWIN:** One of the questions which arise here would be the chief executive and the chief executive's minister and I think within the framework that's being set up at the moment, there is meant to be a level of relationship between the two parties, particularly in respect of things like the outcomes for the organisation, not particularly the outputs, how you do it, but what you actually get out of that, and imperatives around regulation could certainly be part of the outcome framework and this could be a process of providing that sort of information perhaps. The only other comment I was going to make as you were talking - and this goes more to just a general comment, rather than a specific one - there are some frameworks that are coming into place at the moment, for instance, the Department of Finance will always be a leverage around price and efficiency and cost structures and things like that, and in the case of an organisation that is delivering what are called outcomes for the government, we are in a process at the moment of undertaking what are called pricing reviews.

These pricing reviews at this stage of their development vary in terms of philosophy or concept, but at the end of the day, they are an opportunity for a chief executive via their officers to sit down with the Department of Finance and talk about the nature of the price that government is going to be paying them for the delivery of the outcomes. Within that context and some of the other recommendations I made here, the portfolio budget statement reflects those prices and could also reflect somewhat the price or other signals that would come around regulation as well or cost recovery, so there are some frameworks that can pick up and reinforce the sort of things you're talking about.

**MRS OWENS:** So when you say that you could pick up the prices and signals around cost recovery, when you're doing these reviews, you could actually look at what the agency is doing in terms of cost recovery. Can you make judgments about how they're doing it and the charges that are being set? Do you get down to that level of detail?

**DR STEWARDSON:** And the efficiency of costs and operation.

**MR KERWIN:** The sort of frameworks that are coming into place at the moment - if we talk on the cost side at the moment, rather than the price side, the sort of frameworks that are coming into existence - we are starting to put in place a database of benchmarks for a variety of activities, and agencies are contributing to that, so that it will reflect the Australian APS at some point in time. We're also looking to bring into it, and are bringing into it, jurisdictions outside Australia. We would also like to complement it with private sector type practices.

**DR STEWARDSON:** Are you talking about benchmarking?

**MR KERWIN:** Yes, the benchmarking of costs. So we do have some facility, not in isolation to the management of the APS business but in conjunction with them, to look at where their cost structures might be at this point in time, and for us to jointly have a little bit of a view about whether they are at best practice or not best practice, or what frameworks are in place that will facilitate lowering of costs - you know, better costing systems, government's practices, and things like that. So those sorts of discussions are all part of a negotiation on price and the negotiation on price has meant the price impact goes out a number of years - so it's just not next year, it's the next year, the year after and the year after that normally.

**DR STEWARDSON:** When you have that sort of discussion between your department and the regulator do you involve any of the industry that's being regulated?

**MR KERWIN:** No, we don't.

**DR STEWARDSON:** It's a big ask for you guys. I mean just to take a trivial example, the people from the speciality chemical industry gave us one particular example of one particular test of a product and said, "This one so far has already taken 160 hours." To me - I have no idea whether 160 hours is a long time or a short time for a test of a product. A trivial example but you've got a big technical problem, haven't you?

**MR KERWIN:** Yes, and with the framework that I'm talking about there would be an issue with levels of detail, because we cannot get down into levels of detail. So I think the forum that you spoke about would be where you would take - - -

**DR STEWARDSON:** Yes, that sort of thing.

**MR KERWIN:** Because it's an eye into the soul of the business.

**DR STEWARDSON:** Yes, thank you.

**MRS OWENS:** Coming back just two steps further up again, I mean would you look at the charging structures of, say, a regulator? Would you look at how much they're charging per new applicants versus existing ongoing registration of a product? Would you look at those sorts of issues? Sorry, Matthew, we will come back to you in a minute.

**MR KERWIN:** At this point in time I think we will be varyingly successful but we absolutely endeavour to get there, to identify something like common activities. Although they might be called different names in different organisations, they might involve the processing of paper or the movement of something, we would look to have a benchmark across and then talk about that as part of the negotiation. Not as if it's an absolute value or hurdle but, "Look, this is what other businesses are doing. This is the nature of those businesses. Where do you sit in regard to that?" - to have that sort of conversation.

**MRS OWENS:** You said initially that one of the pricing mechanisms you would prefer to see in place is cost recovery mirroring marked prices. Some of these agencies are not mirroring market prices because there's no market price - it might be a monopoly or whatever - and some regulators are setting high prices for the ongoing registration, very low up-front prices or charges when a product is initially - you know, when the initial application goes in. So there's these structural questions and each agency does it a little bit differently, I have to say.

**MR KERWIN:** Yes.

**MRS OWENS:** You don't take an interest in those sort of broader - I guess they're broader principles about how they do it.

**MR KERWIN:** We are probably at a much higher level than that. I mean we are at a much higher level in our discussions around price because it's the price the government is paying for what it buys from these agencies, not what an agency might do in relation to people in the community that it cost recovers from.

**MRS OWENS:** So that really comes back to Robin's point, that somebody needs to be looking at that next level down then to just review those charges and how they're set and whether they do make sense, because they have broader repercussions. I mean we are interested in allocative efficiency; we are interested in the downstream impacts of some of these things. So there are broader economic questions which are actually quite big questions. They are actually not micro questions when you actually start looking at them, they are actually quite important questions, because if you're actually setting the charges incorrectly it could act as a deterrent to products coming into the country, so that the community misses out on particular things. It may act as a block to innovation and so on, so they are actually quite important questions that

need to be addressed somewhere in the system.

**MR KERWIN:** Yes.

**MRS OWENS:** Sorry, Matthew was going to make some point, so was Jamie.

**MR BRINE:** It is really on the pricing reviews. There is a capacity there, and we do it with some of the agencies - each pricing review is different - but quite often you do go out and talk to industries and consumer groups just to get their feeling about how the agency is performing, the effectiveness, transparency. So if they do have feelings that an agency's cost recovery activities are overpriced that gives them an opportunity to feed that input in, but I think what Jim was saying is we normally wouldn't involve them in the modelling processes.

**MR CLOUT:** Taking a step back up from the pricing review, which I think is a very important mechanism for the commission to understand, the type of model that you're talking about I think has some virtue, especially as a model that could be picked up, and I think you will find looking around that there are a lot of organised user groups that have formed, of their own volition, to exert leverage around the place, and there are some people who do it for money, to come and see finance or treasury or PM and C on a quarterly basis, or drop into the minister's office, and they can exert exactly that sort of influence if they are well organised, and it's more or less a model of balanced tensions that's going on.

The CEO of each agency is given responsibilities under the FMA or the CAC Act or their company constitution to do things in various ways. It usually involves efficiency as one of them and then it's up to them to do that as they see fit and the owner, the ultimate owner, the government, usually represented by the minister, will take whatever information streams that are available or offered to them and then may act upon them in various ways, but it's important also to understand the difference between FMA agencies and CAC agencies, where an FMA agency does have to respond. There is like a standing power of direction from a minister. So if a minister did choose to take the advice of one of these sorts of organisations, whether it be a formally structured efficiency review audit committee or whether it be a user group, they do have far more power to direct than they often do with a CAC agency or a company where the government may find that there is no power to direct, or does not wish to use the power to direct frequently. That's important to understand, that there are distinctions.

**DR STEWARDSON:** Thank you. So does any agency under a CAC Act have a board?

**MR CLOUT:** Yes, in most cases. There are some instances where there might be a corporate and so on, but very few nowadays. The standard corporate government's model is a board.

**DR STEWARDSON:** So maybe in that case, as well as the minister, the efficiency

audit committee should report to the board if it's not too much of a captured animal.

**MR CLOUT:** I think the board would be a very important part of the chain because for a lot of CACs they've got a fiduciary duty of company director or something similar that's moved in their legislation, and once in the possession of that information then there would be other duties that come into play, responsibilities that come into play. So I think they would be a very important part of the chain, that sort of information.

**DR STEWARDSON:** So they would have the same obligations and duties as the director of any company board?

**MR CLOUT:** In most cases - in many cases. With the standard Corporations Law Commonwealth-owned company, yes, and with many of the board members of statutory authorities it is also the same. There are exceptions. With state authorities of course you always have to look at each individual authority's legislation.

**DR STEWARDSON:** Do the FMA agencies have a board as well?

**MR CLOUT:** No.

**DR STEWARDSON:** No board at all?

**MR CLOUT:** They have a chief executive.

**DR STEWARDSON:** By definition none of them have a board.

**MR CLOUT:** Yes, they are chief executives, that's right.

**MRS OWENS:** Consultation can be - - -

**MR CLOUT:** There are often other structures that are established, usually within the powers of the CEO, whether it be an advisory panel or board or even a board that might be a decision-making board but it's more of a management board, for instance, rather than a board representing the owner or the shareholder.

**DR STEWARDSON:** I agree with you that sort of what I was outlining is to an extent done at the moment in a more informal way by industry lobby groups and so on but I think it's done very inefficiently at the moment because, so far as we can tell, in many cases CEOs won't give them the information they need to make an informed decision or do but always give it late, or just table it at a meeting with 10 minutes to read it, and all sorts of devices like that, and then it's sort of whoever can happen to grab an ear. So there would be a rather - if one is going to have an input of that source what would be nice to achieve would be a more informed and efficient way of doing it.

**MR CLOUT:** I think from the department's point of view we would see, with the

way that public sector reforms are going in recent years, that it would be better to set up some models of best practice along these lines and show the value of complying with one or more of these models of best practice to the chief executive officer who has a responsibility to pay and use resources efficiently and show the value to them for having such a structure or such a set-up in place, because it makes their job a lot easier to display that they're meeting their obligations, but make it more or less a voluntary thing. They have that responsibility and our idea would normally be that they should be given the flexibility to choose which model they use, if any, to display that.

I think it's also worth pointing out that the Australian National Audit Office has got a role very similar to the one that you're describing. They do tend to listen to user groups in cases where they think that they're getting less than fair dealing and they do have the power to access information, premises, talk to officers, etcetera, and they produce their performance audits as well as compliance orders nowadays, and it's very similar to the sort of thing I believe that you're discussing.

**DR STEWARDSON:** Yes, I see how it goes.

**MR CLOUT:** If I can make one more point on the idea, I think that such a model could start to blur the distinction between services and CSOs, where complaints about the cost of the service result in perhaps a ministerial direction saying, "Let's reduce the cost," and then you get into the area of costing a CSO and funding the programming. I'm not raising it as a negative on the model but just perhaps a feature of it.

**DR STEWARDSON:** Yes.

**MR CLOUT:** It is important to understand where and how that sort of information could be used, especially with CAC agencies.

**DR STEWARDSON:** Yes, I think we were assuming that such a body would take as given the organisation's target and probably take as given, for example, if it's a safety thing, what its decision about what an appropriate safety level is, say, but how it then applies it. I take your point. Thank you for those comments.

**MRS OWENS:** Can I just come back to this issue of the output - sorry, your pricing reviews that you're undertaking: conceivably could you do one of, say, the TGA, the Therapeutic Goods Administration, or would you be doing it of the whole department?

**MR KERWIN:** We would do it of the whole department and it depends how that organisation is structured and how it is reported - I'm personally not aware of that example. The focus of the pricing review at the end of the day is on the price that government pays for the services but in order to get there we may go right down within the organisation to look at practices and cost levels and things like that.

**MRS OWENS:** Where I'm going with this is that if you're looking at the price that

that agency pays the government, if an agency is cost recovering a lot of money, the price it's going to pay back to government is actually going to be quite high by definition. It depends on the section 31 arrangements, which we need to come to in a minute - - -

**MR KERWIN:** Yes.

**MRS OWENS:** - - - but potentially they could be doing quite well with their cost recovery, so they could be paying back into consolidated revenue a lot of money. Does that then take the pressure off that agency? Do you worry less about what they're doing because they are not costing you as much money?

**MR KERWIN:** I think we would be equally worried, because at the end of the day there is a proportion of the business presumably which is budget funded. We need to have a caution that the part of the business which is now subject to cost recovery is not something that's been extracted, while at the same time the budget funding requirements haven't been reduced, so we're holistically looking at the thing. I think we're still interested in it, put it that way.

This submission, however, says that the revenue side of it is a residual. It's really, you know, "What are the benefits of the regulation, for instance? Are they immediate and reasonably significant?" The cost recovery arrangements facilitate efficiency of the two sorts, and is it something that the government is required to be in from a contestability point of view, yes.

**DR STEWARDSON:** Can I ask you, on just a small point, you've just used the word "immediate". You say business benefits must be "reasonably immediate". I'm not quite sure what you mean in that - for example, does it rule out something that might have a positive net present value but benefits over a long period of time?

**MR KERWIN:** The sort of notion that's probably embedded in there is some notion of payback. So if it was a commercial thing, which it isn't, it is an activity that there is going to be some community benefit on. Just say the impact on the community is quite high, is quite intrusive, and the benefit might arise in 10 years' time - well, I would see that perhaps as not being too immediate, that's a bit too distant, and the price you're paying is intrusion. If in fact the benefit can be measured and might commence 18 months out, well, then probably in terms of the principles of it, it's something that might justify the regulation.

**DR STEWARDSON:** I don't understand section 31. Can you please explain to me all about section 31. It keeps cropping up in all sorts of ways, and I've got a few more sort of detailed bits, but you may cover them.

**MR BRINE:** As you know, in the budget, the budget bills agencies appropriate a certain amount of money. Section 9 of the appropriation bills states that those amounts are annotated and increased in accordance with the agency section 31 agreement, and a section 31 agreement is signed between DOFA and the agency and

it basically allows the agency to retain certain types of receipts.

**DR STEWARDSON:** What does "retain" mean in that?

**MR BRINE:** If a receipt falls within one of the categories, in a section 31 agreement, the appropriation can then be annotated for that amount. If a dollar receipt comes in and it falls within one of the categories in a section 31 agreement, then notionally the appropriation bills are annotated for that receipt and the agencies can retain the money.

**DR STEWARDSON:** When you say "retain", the agency actually still pays the money into - - -

**MR BRINE:** Consolidated revenue.

**DR STEWARDSON:** - - - consolidated revenue finds.

**MR BRINE:** That's right.

**DR STEWARDSON:** Correct, but it's understood that that's its bit and it can use it, but still only for what's approved within appropriation.

**MR BRINE:** That's right, normally that outcome.

**MR CLOUT:** It's still under one of the appropriations.

**MR KERWIN:** The general overriding principle is that I don't think an APS business can spend anything that it hasn't then appropriated. That's the first principle. In relation to section 31, an APS business provides whatever it is - services, information - and sells them. Cash comes in the door, which is the receipt notion. In advance of that coming in the door there is an agreement which goes through the appropriation process that Matthew spoke about, so that at the end of the day when the budget comes down on budget night and things commence on 1 July, the agency would know that in relation to the government providing its budget funding it will be of a certain amount, and the cash that it gets in the door from what might be seen as somewhat commercial activities, or activities whereby people are paying for something - - -

**DR STEWARDSON:** Cost recovery.

**MR KERWIN:** - - - cost recovery for instance, it might be that all of that stays with the agency but it's covered by that appropriation. It might also be that part of it might go to the Department of Finance.

**DR STEWARDSON:** So you have different arrangements, that your contract - is that the term - with the agency can be of all sorts of natures. For example, some agencies seem to be saying that for every dollar they get from cost recovery - and this



might be slightly moving the question on to a slightly different point rather than just the mechanics of it - then they get a dollar less in their appropriation. With others, it seems to be, I don't know, the first 7 million goes to you guys and then they share every dollar over of that equally with you, things like that. How does all that fit in?

**MR BRINE:** Again it's pretty much a case-by-case basis. We can take that on notice and find out if there are any current guidelines for when amounts are fully retained. I think there are, but those are covered in the section.

**DR STEWARDSON:** When you say "fully retained", does that mean something over and above appropriation? I just don't understand the terminologies that you use.

**MR BRINE:** Sure.

**MR KERWIN:** Over and above that funded by the government.

**DR STEWARDSON:** Yes.

**MR KERWIN:** The total appropriation is funded by the government, plus the cash that might come in the door under these other arrangements, like cost recovery.

**DR STEWARDSON:** So sometimes under section 31 you might find a situation where, okay, the agency knows its appropriation for the forthcoming year is X and it's got an arrangement with you where, under cost recovery, for every dollar it gets it will be appropriated specifically just to the agency. Is that the thing? But there might be other arrangements where it would be allowed to keep some of its cost recovery over and above the appropriation. Is that right?

**MR KERWIN:** Yes, over and above what the government is going to give it.

**DR STEWARDSON:** Yes.

**MRS OWENS:** The government share.

**MR KERWIN:** Yes.

**MRS OWENS:** The public good element of whatever it is.

**DR STEWARDSON:** Over and above what the budget says.

**MR KERWIN:** Yes, over and above what is called budget funding. Let's do a hypothetical example. Just say an agency has a budget of 150 million. Just say 140 of that comes from the government directly and 10 million comes from cost recovery - on budget night the treasurer would put a budget for that agency for 150 million, knowing that 10 million of it would be the cash flows and 140 would be going to his bottom line, because one 10 million is an expense and the other 10 million is a

revenue, so it matches off, okay, so that's the nature of it.

**DR STEWARDSON:** Yes, all as an estimate, and if the cost recovery didn't get 10 million then it would be made up.

**MR KERWIN:** No, that's it.

**MR BRINE:** It's the cash receipts that are appropriated, so if they only receive \$8 million of the 10 million they're expecting - - -

**DR STEWARDSON:** They only get 148 altogether for that year.

**MR BRINE:** Yes.

**MRS OWENS:** But there could be an agency that might only get 142 and might pocket the rest. It would depend on your agreement with the agency.

**MR KERWIN:** Yes, it does. If I can - - -

**DR STEWARDSON:** I see what you mean.

**MR KERWIN:** If I can just do it with in-principles rather than know what the threshold values are - finance is not interested in small amounts, because that's administratively inefficient, but there is some threshold beyond which - the smaller amounts - and they could be very large amounts in real terms, but compared to the overall budget of the agency they might be relatively small. Finance wouldn't be interested up to a point, so there would be a section 31 agreement and the agency would retain all the cash flows in relation to that.

**DR STEWARDSON:** By "retain" you mean - - -

**MR KERWIN:** It would fall within the appropriation.

**MRS OWENS:** Go back to - - -

**MR KERWIN:** In the 150 million example.

**DR STEWARDSON:** Okay, "retain" in the sense that you first described it.

**MR KERWIN:** Yes. Once it gets beyond some sort of threshold - meaning that it might be becoming a significant part of the agency business - probably there are a couple of questions to be asked there, and that is: what is the nature of the business going on now? Is it something that ministers particularly want, and if it's - and I'm talking perhaps too hypothetically now - - -

**MRS OWENS:** APRA, the prudential regulator.

**MR KERWIN:** Yes, I don't know about - - -

**MR BRINE:** They're a totally different regime.

**MRS OWENS:** We won't get into that then.

**MR BRINE:** That's just - - -

**MR KERWIN:** I think it's important that you've raised that, a CAC agency.

**MR BRINE:** That's right, yes, and what happens there is section 52 of the APRA Act says, "This agency will retain all receipts under the following pieces of legislation," and then there follows a series of prudential regulatory levies, "will be paid to APRA as soon as is practicable after they hit CRF". So the Commonwealth goes out there, collects those moneys from the industry, the prudential industry, it hits CRF, and as soon as practicable after that it gets appropriated to APRA. So that's a legislative regime quite separate to the appropriation bills that we're talking about with - - -

**DR STEWARDSON:** APRA does the raising of the money, doesn't it?

**MR BRINE:** The moneys currently go through treasury, the Department of Treasury. That's being reviewed at the moment.

**DR STEWARDSON:** But doesn't APRA actually collect it in the first place?

**MR BRINE:** I'm not quite sure if you mean "collect" in sort of the physical - that the cheques get posted to them.

**DR STEWARDSON:** Yes, in a physical way.

**MR BRINE:** I think so, yes, but the moneys get paid into the Department of Treasury's accounts and through them into CRF.

**MR CLOUT:** There may be some specific idiosyncrasies with APRA, but generally CAC - - -

**MRS OWENS:** I shouldn't have raised APRA.

**MR CLOUT:** Actually I was going to raise, after the discussion about section 31 and FMA, the point that it's a point to keep in mind that CAC agencies own money in their own right, so they don't need an appropriation to be spending money. So that's why they don't have an equivalent of a section 31 agreement, although you may find that in some of their individual pieces of legislation it sounds like APRA - Matthew has raised the one - - -

**MR BRINE:** That's right.

**MR CLOUT:** In the case of APRA there is a specific clause in its legislation that makes it crystal clear that it has the rights to the money that it raises under certain functions.

**DR STEWARDSON:** Just to go back though to the FMAs, you said, to give your example, 150 million, of which 140 is actually going to come from the government, whatever the correct terminology is - - -

**MR KERWIN:** Taxation revenue.

**DR STEWARDSON:** Taxation revenue - and 10 million is estimated to come from fundraising, if the fundraising - fee-charging only brings in eight, then they're two short. You're not going to make up that other two. If the fee-raising is two over and they get 12, what happens to the extra two? Do they keep it?

**MR KERWIN:** They may need to renegotiate the agreement.

**MR CLOUT:** That's right.

**DR STEWARDSON:** You win on the swings and the - - -

**MR KERWIN:** I mean, in terms of coming in under, presumably whatever they're doing, the volumes relate to the costs. Now, I mean, there are fixed and variable costs involved here and there would be some proportion of fixed costs, but there's probably some variable costs in there as well. So there would be that sort of thing.

**DR STEWARDSON:** Let's assume that for the sake of argument.

**MR KERWIN:** If it goes over some threshold value, whatever it is, then there are other matters of government policy that start to kick in then and they are questions of competitor neutrality. So the question there would be that the business, this APS business, is now out in the market doing something and is a competitor to presumably others who might be able to do this as well, because I don't think we're any longer talking about a regulator. We're talking about some other sort of practice that's occurring.

**DR STEWARDSON:** I see. You think a regulator wouldn't be over-recovering that way?

**MR KERWIN:** I don't have the information but, you know, I think the threshold value is around about \$10 million, for instance. So it's not a very small amount, it's quite a large amount. So if somebody has got to have revenue streams or cash flows of that amount, it's starting to be a significant part of the business or a significant business in its own right. So questions then start to arise about whether they are in a

market, whether they are advantaging themselves because they are a government entity. So questions then arise about the application of, you know, similar taxing regimes and things like that.

**DR STEWARDSON:** But while you're asking yourselves these questions what happens to that extra 2,000,000? Do they actually keep it? Your colleague is using the word "retained" but in the ordinary sense of the word "keep", is it theirs?

**MR KERWIN:** The other question is whether they pay some level of dividend back to government, and that's whether they keep it all or don't keep it all.

**DR STEWARDSON:** And that may vary between agencies?

**MR KERWIN:** That may vary.

**MRS OWENS:** And that would be part of the agreement?

**MR KERWIN:** That would be part of the agreement, yes.

**MRS OWENS:** Can I raise another hypothetical and the dollar amounts don't - - -

**MR BRINE:** Sorry, there are some issues there as well. There's a definition of a certain type of entity called a business unit, and when you start talking about large amounts you're talking about going into that world of business units and there are different accounting rules and section 31 rule sort of starts kicking in, and I'm not terribly familiar with those.

**MRS OWENS:** This hypothetical we were talking about, \$150 million - forget about what the dollars are and whether they're large amounts, or whatever, this is just to establish a principle, but we had the example before that where basically you're looking at the agency having maybe \$140 million budget funded and potentially in their forward estimates \$10 million from cost recovery, making a total amount that they were going to receive of \$150 million. Supposing the amount that they got from cost recovery wasn't \$10 million, it was \$20 million. Forget whether it's going to be a business unit or whatever, but it's \$20 million - so that they ended up with another \$10 million. Does that mean that you then cut back the budget amount? Instead of giving them \$140 million you give them \$130 million so that they still get the 150.

**MR KERWIN:** In the next period it can mean that.

**MR BRINE:** That's right.

**MR KERWIN:** I mean the consequences of going from 10 million to 20 million could be that your budget funding reduces.

**MRS OWENS:** So it creates a sort of peculiar incentive effect back on the agency, doesn't it, potentially?

**MR KERWIN:** It could do. I'm not too sure how prevalent this example is. In terms of a hypothetical it's probably not widespread.

**MRS OWENS:** It's a hypothetical, but if you're clawing back revenue, even if it's in the next period, the incentive on the agency is really very much diluted in terms of raising revenue in the first place.

**MR KERWIN:** It's not encouraging a budget-funded agency to go out and get other sources of cash for research through revenue.

**MR CLOUT:** It certainly has the incentive to earn 10 million.

**MRS OWENS:** Yes, there's incentive to earn the 10 million but not the 20 million.

**MR CLOUT:** It doesn't go right on with it, no.

**MRS OWENS:** And even with an incentive to earn the 10 million there's an incentive there to basically gold-plate, potentially.

**MR CLOUT:** Make it look as if you only just earned the 10 million.

**MRS OWENS:** To go and do what you can to get 10 million, charge whatever you can to get your 10 million because you want the 10 million. There's all sorts of perverse impacts potentially back on the incentive of that agency to be efficient. That's where you need your audit office and all these other mechanisms, to ensure that efficiency is maintained, but we have been getting participants in this inquiry, for example, talking about the Therapeutic Goods Administration and saying, "Well, there has been very little incentive for that agency to act efficiently. They have got a rather large laboratory," which I understand they have been downsizing, but they've got a large staff. The incentives are not there for them to contract out particular activities and so on, because they can just cost recover and presumably that money comes bouncing back into the agency, so the incentives can be perverse.

**MR KERWIN:** In terms of what I said in the early part of this submission it's quite possible that the Department of Finance could have a role around that going into the future because at the moment, when this document called the Portfolio Budget Statement is put up, it records the amounts of money and the budget funded part of that as well as the sources that come from, say, cost recovery, or other sources, and going into the future the Department of Finance might review the initial introduction of those things as well as put in place a framework where annual reports need to talk about the efficiency and effectiveness measures on those cost recovery items. I'm not too sure what that would look like on the ground and in a report but there's already an obligation on the chief executive officers of those businesses to be efficient.

**DR STEWARDSON:** What happens to that 20 million, in the example just now, once they've got the 10 million that they've budgeted to get? It's sort of gone into the

consolidated revenue fund. Does the second 10 million, the extra bit, still go into the consolidated revenue fund, and if it does how do they get it out again to use it if they've only got an appropriated budget?

**MR BRINE:** The section 9 approach is for a category of receipts. It's not for an amount. It's not for \$10 million worth of receipts. It's for all receipts that meet the following definitions.

**DR STEWARDSON:** What was that word you used beginning with A?

**MR BRINE:** Annotated. That's right, it's annotated.

**DR STEWARDSON:** Anything that's annotated they can get out again, correct, even if it's more than their total appropriation for the year.

**MR BRINE:** That's right. There's a concern from agencies in this that they're worried that if they do have a fluctuation in a cost recovery amount that their standing appropriations are going to be cut, but it just doesn't happen - in that year. What we do, looking forward, is say, "I mean if your estimates were that far wrong in this year, why was that, and is it appropriate to keep working on the same assumptions we were last year, going forward?"

**MR CLOUT:** I think then you have to allow for business cycles, and while that agency might make more in one year than was anticipated it might come up short the following year, for several years, until it comes back into that sort of average level again. I think that would change with each business unit that you're looking at, or each company you're looking at, to see how dependent it is on the business cycle or other factors.

**DR STEWARDSON:** I'm fairly sure - and I'm sorry I can't remember which one but one of the people we've talked to or read about - the arrangement was that their commitment was to cost recover a certain amount of money and that if they did more than that - yes, I think a certain amount say - 7 million sticks in my mind for some reason - and that over and above that anything they got they represented it as sharing with you guys. Would that mean that you - assuming I'm remembering correctly - had a contract with them that said, "Okay, you've got to earn 7 million and part of your budget allocation is a section 9 annotated 7 million and anything that you put in from cost recovery over and above that half of the excess will be annotated and half will go into some black hole and you will lose." Would that be how it would work?

**MR KERWIN:** I'm not sure, honestly. We could take that on notice for you. I'm not sure, I'm sorry.

**DR STEWARDSON:** I hope I'm not remembering the story wrong. I think that was what it was.

**MR CLOUT:** It might just help follow up the particular example if you can find

which example that is, but it may be that that's not an FMA section 31 situation. That might be a CAC situation with the sharing of its revenue designated in its act or its constitution.

**DR STEWARDSON:** Yes, it could be. Thank you for explaining that.

**MRS OWENS:** Yes, thank you. I'm much clearer about it now and I hope our staff is much clearer. Yes, they're nodding, so that is good. I think we have raised everything with you and I'm sorry it's so late. I hope you didn't have something else you had to do at 5.30, like fly somewhere, but you're from Canberra. I'm terribly sorry. Is there anything else you want to raise with us before we close for today?

**MR KERWIN:** No, thanks.

**MRS OWENS:** Thank you. We might bother you again with some of these points in detail, if you don't mind, but thank you.

**MR KERWIN:** Yes, thank you.

**MRS OWENS:** We will now close today and we will be resuming tomorrow morning at 9.30.

AT 6 PM THE INQUIRY WAS ADJOURNED UNTIL  
WEDNESDAY, 6 DECEMBER 2000



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